



ARBITRATION - VOLUME II

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<p>1 much.</p> <p>2 THE WITNESS: Thank you.</p> <p>3 (Recess had.)</p> <p>4 CHRIS J. GASTEIER, called for</p> <p>5 examination, after being first duly</p> <p>6 sworn, was examined and testified as</p> <p>7 follows:</p> <p>8 EXAMINATION OF CHRIS J. GASTEIER</p> <p>9 BY-MR.WILLIAMS:</p> <p>10 Q. Can you state your name,</p> <p>11 please.</p> <p>12 A. Chris J. Gasteier, James,</p> <p>13 middle name.</p> <p>14 Q. How do you spell Gasteier?</p> <p>15 A. G A S T E I E R.</p> <p>16 Q. Who is your employer, Mr.</p> <p>17 Gasteier?</p> <p>18 A. Perkins Public Schools.</p> <p>19 Q. And how long have you worked</p> <p>20 for Perkins?</p> <p>21 A. I've completed 28 years</p> <p>22 there.</p> <p>23 Q. What position do you</p> <p>24 currently hold at Perkins?</p> <p>25 A. Perkins High School</p>	<p>1 A. Prior to working at Perkins,</p> <p>2 I subbed for a number of schools in</p> <p>3 Erie and Huron County.</p> <p>4 Q. Okay. Where did you grow</p> <p>5 up?</p> <p>6 A. 6712 Portland Road in Perkins</p> <p>7 school district?</p> <p>8 Q. So you attended Perkins as a</p> <p>9 student, as well?</p> <p>10 A. Yes, I graduated there in</p> <p>11 1975, spent K through 12 there.</p> <p>12 Q. And went to college and then</p> <p>13 came back to teach?</p> <p>14 A. Yes.</p> <p>15 Q. What grades are at the high</p> <p>16 school?</p> <p>17 A. 9 through 12.</p> <p>18 Q. And what age range of</p> <p>19 students are we talking about in grades</p> <p>20 9 through 12?</p> <p>21 A. 14 through 19, sometimes a</p> <p>22 little older.</p> <p>23 Q. Okay. About how many</p> <p>24 students currently at the high school?</p> <p>25 A. Approximately 800, give or</p>
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<p>1 principal.</p> <p>2 Q. How long have you held that</p> <p>3 position?</p> <p>4 A. Since 2001, nine years.</p> <p>5 Q. Okay. So prior to being</p> <p>6 high school principal, what position did</p> <p>7 you hold?</p> <p>8 A. Assistant principal for five</p> <p>9 years, and I taught prior to that since</p> <p>10 1982.</p> <p>11 Q. What did you teach?</p> <p>12 A. I started out teaching</p> <p>13 vocational agriculture for four years.</p> <p>14 Then I taught U.S. history, social</p> <p>15 studies and agriculture for the next 10</p> <p>16 years.</p> <p>17 Q. What teaching certifications</p> <p>18 or licensure do you hold?</p> <p>19 A. I still have my ag. license.</p> <p>20 I have my U.S. history or my social</p> <p>21 studies, comprehensive social studies</p> <p>22 license. I hold a principal certificate</p> <p>23 and superintendent's license.</p> <p>24 Q. Have you worked for any</p> <p>25 other school districts besides Perkins?</p>	<p>1 take a few.</p> <p>2 Q. And how many teachers?</p> <p>3 A. About 40 plus, 42, depending</p> <p>4 upon the part-time -- flex by our</p> <p>5 part-time that we share with other</p> <p>6 buildings.</p> <p>7 Q. Like, for instance, with the</p> <p>8 middle school?</p> <p>9 A. Yes.</p> <p>10 Q. Including those teachers,</p> <p>11 about 42, maybe a few more?</p> <p>12 A. 42 full-time, about five I</p> <p>13 think this past year that we shared with</p> <p>14 Briar and Meadowlawn, when you include</p> <p>15 the band.</p> <p>16 Q. Okay. As principal what are</p> <p>17 your duties with respect to the teachers</p> <p>18 that teach in your building?</p> <p>19 A. Oversee the curriculum and</p> <p>20 instruction.</p> <p>21 Q. Do you have any supervisory</p> <p>22 or evaluation duties?</p> <p>23 A. Certainly evaluation in those</p> <p>24 areas, as well.</p> <p>25 Q. Okay. And briefly what are</p>



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<p>1 those evaluation supervisory duties?</p> <p>2 A. Drawing up a list of</p> <p>3 teachers who are due for their</p> <p>4 evaluation, which I share with the</p> <p>5 assistant principal, Mr. Dahlmann. Then</p> <p>6 we split those duties up during the</p> <p>7 course of the year and we'll evaluate</p> <p>8 teachers. Not every teacher is</p> <p>9 evaluated every year. We have a cycle</p> <p>10 that we go through.</p> <p>11 Q. Do you have any duties with</p> <p>12 respect to supervision and discipline of</p> <p>13 teachers?</p> <p>14 A. Yes.</p> <p>15 Q. And what would those be?</p> <p>16 A. If there is an issue, it</p> <p>17 would ultimately come to me as the</p> <p>18 principal of the building. And then I</p> <p>19 would follow through with that</p> <p>20 communicating to the superintendent.</p> <p>21 Q. Okay. Do you have any</p> <p>22 expectations regarding teachers when it</p> <p>23 comes to their supervision of students</p> <p>24 in the classroom?</p> <p>25 A. Yes.</p>	<p>1 And it is important that they be</p> <p>2 supervised, because there are some</p> <p>3 things that could happen that could</p> <p>4 either harm students or be inappropriate</p> <p>5 actions by students at the time.</p> <p>6 Therefore, we rely on the adults, the</p> <p>7 teachers to be in charge of the</p> <p>8 supervision.</p> <p>9 Q. Okay. Do you have the same</p> <p>10 expectations of teachers who are</p> <p>11 supervising students in a study hall?</p> <p>12 A. Yes.</p> <p>13 Q. And why is that?</p> <p>14 A. Once again we're talking</p> <p>15 about adolescents. We're talking about</p> <p>16 school safety for the students. And</p> <p>17 whether they're in a classroom or study</p> <p>18 hall, if they're supervising students,</p> <p>19 the expectations would be the same.</p> <p>20 Q. Okay. If you could turn to</p> <p>21 the large notebook in front of you.</p> <p>22 Not that one, the other one. If you</p> <p>23 could turn, please, to tab 3, which is</p> <p>24 Board Exhibit 3. It's a pretty lengthy</p> <p>25 document. If you could take a moment</p>
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<p>1 Q. And what are those?</p> <p>2 A. We have bell times. And as</p> <p>3 teachers, I encourage them to be in the</p> <p>4 hallways between bell times and be in</p> <p>5 the classrooms when the bell rings for</p> <p>6 the students.</p> <p>7 Q. Okay. And what do you</p> <p>8 expect them to do once they're in the</p> <p>9 classroom supervising students?</p> <p>10 A. There should be no disruption</p> <p>11 of class. Different teachers handle it</p> <p>12 in different ways in terms of the voice-</p> <p>13 level. It depends upon what is being</p> <p>14 taught at the time.</p> <p>15 But students should not be left</p> <p>16 alone. Students should be under the</p> <p>17 supervision of the teacher during the</p> <p>18 class time.</p> <p>19 Q. At all times?</p> <p>20 A. At all times.</p> <p>21 Q. And why is it, why is the</p> <p>22 supervision of students at all times</p> <p>23 important?</p> <p>24 A. We're talking about high</p> <p>25 school adolescents who are not adults.</p>	<p>1 to see if you can identify that document</p> <p>2 as a whole?</p> <p>3 A. It looks like what would</p> <p>4 come out of our teacher handbook in</p> <p>5 terms of our directory and assignments.</p> <p>6 Q. Okay.</p> <p>7 A. As a matter of fact, as I go</p> <p>8 on, it looks like the teacher handbook.</p> <p>9 Q. Okay. And what is --</p> <p>10 briefly, what is the -- what's the</p> <p>11 purpose of the teacher handbook?</p> <p>12 A. The teacher handbook is very</p> <p>13 similar to the student handbook, and</p> <p>14 it's the guidelines for the teachers to</p> <p>15 follow during the course of the year.</p> <p>16 And it has a number of listings in</p> <p>17 terms of what is taught, the</p> <p>18 expectations of the teachers,</p> <p>19 directories, et cetera.</p> <p>20 Q. Okay. Helpful information</p> <p>21 about bell schedules, directories of</p> <p>22 teachers, that kind of information?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 A. And guidelines.</p>



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<p>1 Q. And guidelines. There is --</p> <p>2 and unfortunately the pages aren't</p> <p>3 numbered, so I'll have to give a</p> <p>4 description of the page.</p> <p>5 But there's a page about</p> <p>6 two-thirds of the way through this book.</p> <p>7 And at the top of the page it says,</p> <p>8 school duty, hours for professional</p> <p>9 staff. Do you have that page?</p> <p>10 A. Yes. It says school duty</p> <p>11 hours and underneath student study</p> <p>12 halls.</p> <p>13 Q. Okay.</p> <p>14 MR. SHOUB: I'm sorry. Just a</p> <p>15 minute. Two-thirds of the way back?</p> <p>16 MR. WILLIAMS: Yeah, two-thirds</p> <p>17 of the way back. It says school duty</p> <p>18 hours.</p> <p>19 THE WITNESS: It looks like this.</p> <p>20 MR. SHOUB: I've seen it.</p> <p>21 THE ARBITRATOR: Who didn't</p> <p>22 number the pages?</p> <p>23 MR. WILLIAMS: They don't come</p> <p>24 numbered apparently.</p> <p>25 THE WITNESS: I can take that</p>	<p>1 A. To make sure that all of our</p> <p>2 teachers handle it in the same and</p> <p>3 similar fashion and what our</p> <p>4 expectations as the administration is.</p> <p>5 Q. Okay. So this sets forth</p> <p>6 expectations of teachers in their</p> <p>7 supervision of study halls?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. And the numbers</p> <p>10 there, are those options for what can</p> <p>11 occur in study hall?</p> <p>12 A. Yes.</p> <p>13 Q. And then that next paragraph</p> <p>14 where there's some bolded language, what</p> <p>15 is that -- what's the purpose of that</p> <p>16 language for teachers?</p> <p>17 A. I'm going to answer, it's to</p> <p>18 not have any of that happen, with the</p> <p>19 exception that in May of this past year,</p> <p>20 we did allow electronic devices, so that</p> <p>21 second sentence. We sent home an</p> <p>22 advisory to parents, but otherwise, all</p> <p>23 that bold was not to occur during study</p> <p>24 hall.</p> <p>25 Q. Okay. So no card playing?</p>
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<p>1 under advisory for the future.</p> <p>2 MR. SHOUB: Is it after the</p> <p>3 master schedule?</p> <p>4 MR. WILLIAMS: Yes.</p> <p>5 THE WITNESS: If you go to the</p> <p>6 back and start forward, it might be</p> <p>7 better. If you look at the telephone</p> <p>8 directory. And then --</p> <p>9 MR. SHOUB: Yes.</p> <p>10 MR. WILLIAMS: It's seven or</p> <p>11 eight pages.</p> <p>12 THE WITNESS: It's two pages</p> <p>13 passed the telephone.</p> <p>14 MR. SHOUB: School duties,</p> <p>15 professional staff.</p> <p>16 MR. WILLIAMS: Yes.</p> <p>17 THE ARBITRATOR: What it's</p> <p>18 called?</p> <p>19 MR. WILLIAMS: It says school</p> <p>20 duties hours, professional staff at the</p> <p>21 top.</p> <p>22 THE ARBITRATOR: Okay.</p> <p>23 Q. On this page, what's being</p> <p>24 set forth with respect to student study</p> <p>25 hall, why is that in here?</p>	<p>1 A. They were supposed to be</p> <p>2 studying, and in groups, or taking</p> <p>3 advantage of one of those numbers 1</p> <p>4 through 4 above that, not doing the</p> <p>5 bold.</p> <p>6 Q. Okay. And the groups, when</p> <p>7 would it be permissible for students to</p> <p>8 be in groups in study hall?</p> <p>9 A. With permission of the</p> <p>10 teacher or the supervisor in the study</p> <p>11 hall.</p> <p>12 Q. Okay. And what were they to</p> <p>13 be doing in groups?</p> <p>14 A. Studying.</p> <p>15 Q. Okay. Engaging in a study</p> <p>16 related purpose --</p> <p>17 A. Yes, sir.</p> <p>18 Q. -- as a group project?</p> <p>19 A. Group project, collaborative</p> <p>20 learning.</p> <p>21 Q. Okay.</p> <p>22 A. Quizzing one another.</p> <p>23 Q. Okay. Would it be</p> <p>24 permissible for students to play video</p> <p>25 games in study hall?</p>



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<p>1 A. No electronic devices would 2 have taken care of that. 3 Q. Okay. Would it be 4 permissible for a student to leave the 5 classroom without permission in study 6 hall? 7 A. No, sir. No. 8 Q. Or to throw papers -- 9 A. No. 10 Q. -- or plastic bottles in 11 study hall? 12 A. No. 13 Q. Is it permissible for 14 teachers to sleep during study hall? 15 A. No. 16 Q. What about during class? 17 A. No. 18 Q. And why not? 19 A. Supervisory conditions would 20 not be occurring, if the monitor, the 21 teacher, whoever was in charge of 22 watching the study hall was not paying 23 attention. 24 Q. Okay. Are you familiar with 25 who Carol Smith is?</p>	<p>1 Okay. Her daughter? 2 A. Roz. 3 Q. You knew her daughter? 4 A. Yes. 5 Q. Do you know her son, Chris 6 Smith? 7 A. Yes, I do. 8 Q. And who is he? 9 A. He's currently our cross 10 country coach. Prior to that I've known 11 Chris for a long time, too. He 12 graduated after I started teaching, I 13 believe, in 1984. And he was a Perkins 14 school board member for a number of 15 years, I don't recollect how many. 16 Q. Okay. How many members are 17 on the board of education? 18 A. Five. 19 Q. Okay. So he would have been 20 one of those five members of the board 21 of education? 22 A. Correct. 23 Q. And do you have any 24 understanding as to what the role of the 25 members of the board of education is?</p>
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<p>1 A. Yes, I am. 2 Q. And who is Carol Smith? 3 A. She's sitting to my left. 4 Q. Okay. And she -- 5 A. She is a teacher, had been a 6 teacher at Perkins High School for a 7 number of years. 8 Q. Okay. How long during the 9 time you've been there has she been 10 there? 11 A. I believe all 28 years. 12 Q. Okay. How long have you -- 13 is that how long you've known Mrs. 14 Smith? 15 A. I've known her longer than 16 that. 17 Q. How is it you've known her? 18 A. She has children that are 19 roughly my age, and at least one of 20 those when I was a teenager worked on 21 our farm picking strawberries. 22 Q. And you were in his -- and 23 her -- her son -- 24 A. Roz. 25 Q. -- or her daughter?</p>	<p>1 A. They're to set policy for 2 the school district. 3 Q. Do they ultimately approve 4 any hiring of employees? 5 A. Yes. Yes, they do, as per 6 the recommendation of the school 7 superintendent. 8 Q. Approval all of contracts? 9 A. Yes. 10 Q. Did Mrs. Smith work in your 11 building? 12 A. Yes, she did. 13 Q. And what did she teach in 14 your building? 15 A. This past year it was 16 business classes, accounting classes and 17 social studies, modern world history. 18 Q. Okay. Is that what she 19 always taught or did she teach something 20 different -- 21 A. No. 22 Q. -- prior to this? 23 A. That was her schedule this 24 year in my building. 25 Prior years, it was mostly</p>



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<p>1 business. She had been a shared teacher 2 with Briar for a year prior to this 3 past year. And I believe a number of 4 years ago she had also been at Briar, 5 as well. 6 Q. Okay. 7 A. I believe that -- I'm not 8 sure, but I believe that was prior to 9 my administrative time. 10 Q. Okay. And when she had 11 taught prior to this year, it was 12 business classes, you said? 13 A. At the high school, yes. 14 Q. Okay. Prior to the 15 2008/2009 school year, which would have 16 begun late August of 2008, had you ever 17 had any discussions with Mrs. Smith 18 regarding her sleeping on the job? 19 A. She had in passing about her 20 health issues and closing of her eyes, 21 because she had some surgery, I believe. 22 Q. Okay. What do you recall of 23 that conversation? 24 A. As best I can, it was that 25 she -- we were talking about I think</p>	<p>1 A. Yes. I'm sorry. 2 Q. That's okay. 3 A. I was shaking my head. 4 Q. Yeah, she can take down the 5 words we say, but not so much the 6 gestures. 7 A. Yes. 8 Q. You said what she had said 9 to you. Had you similarly heard that 10 reports in your position -- 11 A. Yes. 12 Q. -- as the principal, that 13 she had been observed possibly 14 sleeping -- 15 A. Yes. 16 Q. -- or appearing to be 17 sleeping in class? 18 Okay. So as a result of that 19 conversation you -- if I understand your 20 testimony, you impressed upon her the 21 importance of not sleeping in class? 22 A. Yes. 23 Q. Okay. What is a fire drill? 24 A. An evacuation of the 25 building.</p>
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<p>1 supervision. And she mentioned that 2 there were people who were saying that 3 she was sleeping, and that wasn't true, 4 because she had one eye that she was 5 almost blind in, and that she would 6 occasionally close the other eye to rest 7 it. 8 Q. Okay. And what did you say 9 in response to her then? 10 A. That we had to make sure 11 that we were not sleeping in class, that 12 we were supervising students at all 13 times. 14 Q. Okay. So she -- do you 15 recall about when this conversation 16 occurred? 17 A. It would have been during 18 the school year prior to the 08/09 year. 19 Q. So sometime during the 07/08 20 school year? 21 A. Yes. 22 Q. Okay. And she had said to 23 you that she had heard other people were 24 saying that she appeared to be sleeping 25 in class? You have to say yes or no.</p>	<p>1 Do you want to know what our 2 fire drills are? 3 Q. Yes. For Perkins High 4 School, what's the procedure for a fire 5 drill? 6 A. That's gone back and forth 7 for a number of years. But three or 8 four years ago we settled that we were 9 going to have one evacuation drill. 10 That was going to cover fire, 11 evacuation, whatever, so we called it an 12 evacuation drill. 13 We have two areas that we go to. 14 One is called Scott Fry Lane where a 15 portion of the building evacuates their 16 classrooms and goes down Scott Fry Lane. 17 Another goes to the north end of the 18 building, which we call the -- there's a 19 walkway that goes around, a path, a walk 20 path that goes around towards Marshall 21 Avenue, and the other half of the 22 building goes down there. 23 When we evacuate the buildings, 24 every teacher has to carry a plastic 25 folder. In that they have their class</p>



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<p>1 rosters and attendance. They take 2 attendance. It's on a half sheet of 3 paper. It's color coded by the area of 4 the building that they're in. 5 They hand that to an evacuation 6 captain who then gives it to Mr. 7 Dahlmann or myself at the conclusion of 8 the evacuation drill. 9 Q. Okay. Are all people within 10 the building expected to leave during 11 the fire drill? 12 A. If it's a drill, everyone is 13 expected to leave, except for me, and 14 SRO possibly and one of the fire people 15 to walk through the building to make 16 sure that there aren't other people -- 17 that there are no other people in the 18 building. That includes cooks, 19 cafeteria workers, custodians, everybody 20 is expected to go. 21 Q. What's an SRO? 22 A. School resource officer. 23 Q. Okay. Is that an employee 24 of the district or is that an actual 25 police officer?</p>	<p>1 A. Once they're out to those 2 areas -- well, first of all, they're 3 supposed to accompany their students 4 down, whether it's the stairwell, the 5 hallway, close the windows, close the 6 doors, shut the lights off. Accompany 7 the classroom down to that area, then 8 take attendance once they're there. 9 Any student who might be in their 10 room that was not supposed to be there 11 on a regular basis, but might have been 12 visiting getting help or assistance, 13 they notate that on the list as somebody 14 who's not usually there, so that we can 15 check the other sheets. 16 If somebody is missing from the 17 classroom, during the evacuation drill, 18 that's also noted. 19 MR. SHOUB: I'd just like to 20 raise an objection about this testimony, 21 Mr. Taich. Again this is not something 22 that's part of the charges against Mr. 23 Smith. We had this issue come up 24 yesterday, I believe, as well. And I 25 just want to renew the objection.</p>
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<p>1 A. It's an actual police 2 officer. 3 Q. Okay. Someone who -- 4 A. Currently there's an 5 agreement, I believe, with the board of 6 education. I don't know how their 7 salaries are paid. But it is an actual 8 police officer, and they were employed 9 by the Perkins Police Department. 10 Q. Okay. And perhaps there's a 11 reimbursement, if you're suggesting that 12 the district provides, because that 13 person is in the school all day? 14 A. I'm not privy to that 15 information, but. 16 Q. Okay. 17 A. Yes. 18 Q. The teacher's role, if I 19 understood what you said, was to have a 20 plastic binder? 21 A. Yes. 22 Q. And to -- what are the 23 teacher's duties with respect to the 24 individual students in his or her 25 classroom?</p>	<p>1 THE ARBITRATOR: All right. 2 Where in the charges? 3 MR. WILLIAMS: The basis for 4 asking these questions is that in the 5 superintendent's recitation of prior 6 discipline which had occurred with Mrs. 7 Smith, one of them dealt with failure to 8 leave as part of the fire drill. And 9 again looking at the overall record of 10 the teacher was something that had been 11 again put as part of the letters of 12 discipline. 13 THE ARBITRATOR: Is this going 14 into -- what school year are we talking 15 about? 16 MR. WILLIAMS: The end of the 17 07/08, I believe May of 08. 18 THE ARBITRATOR: So this is going 19 to the pattern of conduct, but not the 20 pattern of conduct with regard to 21 tardiness and sleeping? 22 MR. WILLIAMS: Correct. 23 THE ARBITRATOR: All right. I'll 24 hear it. Don't spend a lot of time on 25 this, to be honest.</p>



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<p>1 MR. SHOUB: Can I have a 2 continuing objection to the testimony? 3 MR. WILLIAMS: Sure. 4 THE ARBITRATOR: Go on. 5 Q. Did you learn of an incident 6 where Mrs. Smith had not left the school 7 building as part of the fire drill? 8 A. Yes. 9 Q. Okay. And what did you 10 learn? 11 A. I was contacted by Tanya 12 Corben or school resource officer that 13 said she had not left. 14 Q. Okay. Is that acceptable 15 for a teacher to not leave the building 16 during the fire drill? 17 A. No. 18 Q. Was that then discussed with 19 Mrs. Smith? 20 A. Yes. 21 I received a letter from the fire 22 department. And it noted that we had 23 -- that that was an issue for us. 24 I then talked to Mrs. Smith. 25 She was having difficulty getting up and</p>	<p>1 A. Yes. 2 Q. Okay. I'd like to turn your 3 attention to June of 2009. As I 4 understand it, in the 08/09 school year, 5 and there's been plenty testimony on 6 this issue, regarding her assignment 7 being a half time Briar Middle School, 8 half time Perkins High School. Is that 9 your understanding, as well? 10 A. Yes. 11 Q. Okay. Why was that her 12 assignment for the 08/09 school year? 13 A. Okay. Let me pause for a 14 second, just so I make sure I get these 15 right, since we went from 07/08. And 16 now you're talking 08/09? 17 Q. Correct, from August of 08 18 through -- 19 A. And last year 09/10. Okay. 20 So we're talking the previous year? 21 Q. Yes. 22 A. That's the year when she was 23 at Briar for a half time. 24 We had low enrollment in the 25 business classes, not enough students to</p>
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<p>1 down the steps. I said I would place a 2 wheelchair at the bottom of the steps, 3 so that if we ever needed to get her 4 out in a speedier time, that we could 5 do that. And I did so. 6 Q. Okay. With Mrs. Smith not 7 leaving the room, what did her students 8 do? Did her students stay with her or 9 did they leave? 10 A. There was an attendance sheet 11 given to another teacher that was handed 12 in for that particular drill. 13 Q. Okay. 14 A. That's one of the reasons -- 15 that's one of the ways I learned of it, 16 as well. 17 Q. Okay. So she had not 18 supervised her students -- 19 A. Correct. 20 Q. -- as part of that 21 evacuation? 22 A. Yes. 23 Q. All right. And then in your 24 discussion with her, I take it you 25 talked about that supervision issue?</p>	<p>1 occupy full time for her classes. 2 Therefore, she was going to have to be 3 issued another assignment. 4 Q. Okay. And then so what was 5 that other assignment? 6 A. The other assignment would be 7 that she would be teaching social 8 studies, because that was her other 9 certification. Looking for 10 certifications, those were the areas 11 that we had to choose from. 12 Q. Okay. Was that for the 13 08/09 school year she was teaching 14 social studies or for the 08/09 school 15 year was she half time at the middle 16 school? 17 A. Wait a minute. Okay. 18 That's what I was -- yeah. Okay. 19 There was contemplation about her 20 teaching social studies -- 21 Q. Okay. 22 A. -- for the 08/09 school 23 year. 24 Q. But ultimately she did not? 25 A. But she did not.</p>



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<p>1 Q. Okay.</p> <p>2 A. Because she only had a half</p> <p>3 time assignment at the high school, and</p> <p>4 there was a need at the middle school</p> <p>5 that was discussed during our meetings,</p> <p>6 our administrative team meetings. It</p> <p>7 was determined that she would spend half</p> <p>8 time there at the middle school. I</p> <p>9 believe they were still teaching</p> <p>10 keyboarding at the time.</p> <p>11 Q. Okay. And so she would</p> <p>12 spend half the day at the middle</p> <p>13 school --</p> <p>14 A. Yes.</p> <p>15 Q. -- and half the day at the</p> <p>16 high school?</p> <p>17 At the end then of the 2008/2009</p> <p>18 school year, was that arrangement then</p> <p>19 discussed again as to whether she would</p> <p>20 continue teaching --</p> <p>21 A. Yes.</p> <p>22 Q. -- that load?</p> <p>23 Okay. And what was that</p> <p>24 discussion?</p> <p>25 A. I believe I sent a letter to</p>	<p>1 informing Mrs. Smith of in this letter?</p> <p>2 A. That she will be teaching</p> <p>3 social studies at the school.</p> <p>4 Q. Okay. For what school year?</p> <p>5 A. 2009/2010.</p> <p>6 Q. Okay. So at the end of</p> <p>7 08/09 -- June 1 of 09 would be the end</p> <p>8 of the 08/09 school year?</p> <p>9 A. Yes.</p> <p>10 Q. So at the end of that school</p> <p>11 year, you -- there was a contemplation</p> <p>12 for Mrs. Smith to teach social studies</p> <p>13 for the 09/10 school year?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Why, why was that</p> <p>16 happening in the 09/10 school year?</p> <p>17 A. Thank you for refreshing my</p> <p>18 memory with that.</p> <p>19 But that would be because we're</p> <p>20 not -- she was not needed at the middle</p> <p>21 school. And I would not need a</p> <p>22 full-time social studies teacher that I</p> <p>23 already had in Ms. Mazza. She was</p> <p>24 capable by certification of teaching</p> <p>25 social studies, so she was going to</p>
Page 531	Page 533
<p>1 her stating that she would be half time</p> <p>2 at the high school and half time at the</p> <p>3 middle school.</p> <p>4 Q. At the end of the 2008/2009</p> <p>5 school year?</p> <p>6 A. I don't recall.</p> <p>7 Q. Okay.</p> <p>8 A. I'm having difficulty</p> <p>9 recalling the timeframe.</p> <p>10 Q. If you could turn, please,</p> <p>11 to Exhibit 30.</p> <p>12 A. Okay.</p> <p>13 Q. Are you able to identify</p> <p>14 that document?</p> <p>15 A. Okay. Yes.</p> <p>16 Q. Okay. And what's the date</p> <p>17 of that document?</p> <p>18 A. June 1, 2009.</p> <p>19 Q. Okay. And who wrote that?</p> <p>20 A. That's my handwriting or my</p> <p>21 signature.</p> <p>22 Q. Okay. And is the letter to</p> <p>23 Carol Smith?</p> <p>24 A. Yes, it is.</p> <p>25 Q. And what is it you are</p>	<p>1 teach business in the morning and social</p> <p>2 studies in the afternoon.</p> <p>3 Q. Was there enough business</p> <p>4 classes that she could have taught the</p> <p>5 full load of business?</p> <p>6 A. No.</p> <p>7 Q. Okay. So --</p> <p>8 A. Not unless I would have</p> <p>9 extremely low numbers in those classes.</p> <p>10 Q. Okay. So to meet reasonable</p> <p>11 enrollment numbers in your business</p> <p>12 classes, you had enough for half a day</p> <p>13 of business classes?</p> <p>14 A. Yes.</p> <p>15 Q. Which left then another half</p> <p>16 of time to fill for Mrs. Smith?</p> <p>17 A. Yes.</p> <p>18 Q. Given at least 28 years that</p> <p>19 you observed her having seniority in the</p> <p>20 school building, is it fair to say she</p> <p>21 would have seniority over many other</p> <p>22 teachers?</p> <p>23 A. Yes.</p> <p>24 Q. So it's not as if she would</p> <p>25 not have something to teach during that</p>



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<p>1 other half of the day, if I understand 2 you correctly? 3 A. Correct. Which -- 4 Q. What then happened with Ms. 5 Mazza? You mentioned Ms. Mazza. 6 A. Yeah, which leads to my 7 mention in the first paragraph. We had 8 another social studies teacher scheduled 9 for full time, but because she had less 10 seniority than Mrs. Smith, that's why I 11 mentioned that in the first paragraph. 12 Q. Okay. So Ms. Mazza, she had 13 been teaching social studies full-time? 14 A. Yes. 15 Q. And had less seniority than 16 Mrs. Smith? 17 A. Yes. 18 Q. Mrs. Smith as a more senior 19 teacher in the bargaining unit was 20 entitled to get a full day's worth of 21 work, so that's why she had the half 22 day of business and half day of social 23 studies? 24 A. Correct. 25 Q. Okay. Had Mrs. Smith taught</p>	<p>1 observe a teacher's class? 2 A. Yes. 3 Q. What teachers' classes did 4 you ask her to observe? 5 A. On this paper I asked her to 6 observe Tim Obergefell and also I 7 believe Scott McVeigh, and to spend some 8 time with those teachers and the 9 department chair afterwards, after those 10 classes, so she could understand -- 11 better understand the curriculum, get a 12 handle on it for the next year. 13 Q. Okay. To your knowledge did 14 she do what you had asked her to do? 15 A. She did go down and observe 16 the teachers. 17 Q. Okay. Did you receive any 18 reports from either Mr. McVeigh or 19 Mr. -- 20 A. Obergefell. 21 Q. Obergefell. Regarding her 22 observation of their classes? 23 A. Yes. 24 Q. And what report did you 25 receive?</p>
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<p>1 social studies in recent years? 2 A. Not at the high school. 3 Q. Okay. Had she taught it 4 anywhere else that you knew of? 5 A. I don't know the date, I 6 believe it was sometime at the middle 7 school. 8 Q. Social studies? You don't 9 know? 10 A. I don't know. 11 Q. Okay. What was it then you 12 were instructing her to do in the second 13 paragraph with respect to the teaching 14 of social studies at the high school? 15 A. I wanted her to do some 16 observation with teachers that were 17 currently teaching those classes. I 18 wanted her to be aware of how the class 19 period went, what the performance 20 indicators were with the State standards 21 and what the expectations of the social 22 studies department was for the teachers 23 that would be teaching social studies in 24 that department. 25 Q. Okay. Did you ask her to</p>	<p>1 A. That she had been late to 2 one class, Mr. Obergefell's class. That 3 she had fallen asleep during Mr. 4 McVeigh's class. And that she had not 5 stayed to talk to them afterwards about 6 what her observations were of those 7 classes. 8 Q. Okay. Had she talked to 9 them about syllabus, benchmark, 10 performance indicators, those issues, do 11 you know? 12 A. I don't know. 13 Q. Okay. After you received 14 that report from Mr. McVeigh and Mr. 15 Obergefell, what did you do next? 16 A. I wrote a note the her, I 17 believe, because she had not followed 18 through on what I had asked her to do. 19 Q. If you could turn please to 20 Exhibit 33. 21 A. Yes. 22 Q. Is that the note to which 23 you're referring? 24 A. Yes. 25 Q. Okay. And what was the</p>



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<p>1 purpose -- first of all, tell me a 2 little bit about Exhibit 33, what is it 3 and what's this related to? 4 A. I thought that it was very 5 important that we take the time to 6 prepare for the following year. And in 7 my opinion that had not occurred. 8 I had conversation with one of 9 the department chairs that led to my 10 writing this note and needed to have a 11 conversation with her about it. 12 Q. Okay. And so this is a 13 letter to Mrs. Smith? 14 A. Yes. 15 Q. From you? 16 A. Yes. 17 Q. Dated June 5, 2009? 18 A. Correct. 19 Q. Okay. In the middle of that 20 first page you have a number of bullet 21 points. What are you discussing in 22 those bullet points? 23 A. She had been late to class 24 with Mr. Obergefell. And on the same 25 day during a video presentation in Mr.</p>	<p>1 bottom. 2 Q. Okay. And at the bottom 3 that's an e-mail from you to Mr. Bores 4 and Mr. McVeigh? 5 A. Yes. 6 Q. And Joe, Scott, I still need 7 the communication I requested earlier 8 today? 9 A. Yes. 10 Q. What was the communication 11 you'd requested? 12 A. As I was out in the building 13 earlier in the day, I had a conversation 14 with Mr. Bores in the hallway about what 15 had occurred. And I don't like just 16 drive by memos in the hallway. I asked 17 him to put something in writing to me 18 and forward it to me later on in the 19 day. 20 And I had not received anything 21 by -- if my military time is correct, 22 that's about 3:30 in the afternoon. So 23 I sent an e-mail to both of them, 24 because they were both of the building 25 by that time, and that hence Joe sent a</p>
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<p>1 McVeigh's class, he noted that she had 2 fallen asleep during the class. And on 3 both days that I'd asked her to be 4 there, she had not gone to speak with 5 them afterwards. 6 I do believe I also noted that I 7 probably made an incorrect date on June 8 3rd, because it didn't match up with the 9 Thursday and Friday dates. 10 Q. Okay. Did you -- other 11 than, you said, you received reports 12 from Mr. McVeigh and Mr. Obergefell, did 13 you receive any other feedback from 14 anyone in the social studies department? 15 A. Mr. Bores, the department 16 chair. 17 Q. If you could turn, please to 18 Exhibit 31. 19 A. Yes. 20 Q. Can you identify that 21 document? 22 A. That is an e-mail between 23 myself and Mr. Bores. 24 Q. Okay. 25 A. And also Mr. McVeigh at the</p>	<p>1 7:13 response to me in the evening. 2 Q. Okay. And what was it that 3 -- what were the concerns that they 4 expressed to you? 5 A. They had had a conversation 6 with her, and she had mentioned the 7 three things that I -- that he listed 8 at the top. But I had not been a party 9 to that conversation, so that was new 10 information to me. 11 Q. Okay. And again what was 12 the nature of the concern, was it 13 regarding her teaching social studies? 14 A. Yeah, teaching, that -- yeah, 15 her conversation that she'd had with Mr. 16 McVeigh and Joe that, you know, it 17 wasn't her choice to do this. And that 18 she would be teaching half time, bumping 19 into the social studies -- these were 20 her options, take over the marketing 21 program. We had discussed number 3, but 22 she had no licensure or certification 23 and was not highly qualified to take 24 over the marketing program. 25 Q. Okay. And a teacher can't</p>



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<p>1 teach in an area they're not licensed 2 in? 3 A. Not by no child left behind, 4 not by our board policy, they're pretty 5 strict about that, they want highly 6 qualified teachers. 7 Q. Okay. So as you understood 8 it, given Mrs. Smith's certifications 9 and the teaching needs of the school 10 district, the assignment that she had 11 been given, was the assignment 12 appropriate? 13 A. Yes. 14 Q. All right. The very last 15 line of that e-mail says, as per our 16 conversation prior, you are fully aware 17 of how the social studies department 18 feels about this situation. Were you 19 fully aware? 20 A. They had expressed to me 21 their concerns about her ability to 22 competently teach social studies at the 23 level that it was being taught at that 24 time by the department's teachers. 25 Q. Okay. Did that cause you</p>	<p>1 A. Yes. 2 Q. Who was at that conference? 3 A. I believe it was myself, 4 Mrs. Smith, Mr. Gunner and Mr. Gerber. 5 Q. Okay. Mr. Gerber was the 6 union president at that time? 7 A. Mr. Gerber would have been 8 the union president. 9 Q. Okay. And what happened at 10 that meeting? 11 A. This letter -- there was a 12 letter that was presented to her at the 13 time we discussed the things. I do 14 believe I made note of the wrong date 15 as far as the June 3rd. And that there 16 would be some consequences taken as a 17 result of these actions. 18 Q. Okay. So there was a 19 discussion regarding these allegations 20 at that meeting? 21 A. Yes. 22 Q. Did Mrs. Smith or Mr. Gerber 23 have any response to those allegations? 24 A. I don't recall exactly. I'm 25 sure that she had a comment. I believe</p>
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<p>1 some concern? 2 A. Yes. 3 Q. Okay. What could be done 4 about that concern? 5 A. We were trying to set up the 6 opportunity for her to learn with those 7 teachers and take advantage of what was 8 offered. The training during the summer 9 offered them the opportunity to meet at 10 any time. She certainly took -- I 11 would make the time -- had made the 12 time available for her to meet with the 13 teachers of that department. 14 Q. Okay. You had written that 15 letter on June 5th to Mrs. Smith 16 regarding -- 17 A. Which, was that 33? 18 Q. I'm sorry. Exhibit 33, yes, 19 regarding the concerns. The first line 20 says you request her presence at a 21 disciplinary conference on Tuesday, June 22 9? 23 A. Uh-huh. 24 Q. Did that disciplinary 25 conference occur?</p>	<p>1 that she had mentioned to me that she'd 2 met with a student prior to coming that 3 was responsible for her being late to 4 the class for Mr. Obergefell. 5 And I commented that, you know, 6 we have expectations to be on time and 7 in class and at appointments, but 8 certainly we have students as well, and 9 we don't want to shun those away. 10 Q. Okay. You mentioned a 11 moment ago that as a result of that 12 meeting you provided some written 13 feedback or conclusions? 14 A. That probably would have come 15 from Mr. Gunner, but I'm -- 16 Q. If you would turn to Exhibit 17 34, please. Okay. So what is Exhibit 18 34? 19 A. It's a letter from me to 20 Carol as prior -- or after that time, 21 after that meeting, June 15th. 22 Q. The letter is dated June 23 15th -- 24 A. Yeah. 25 Q. -- 2009?</p>



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<p>1 A. Yeah. And --</p> <p>2 Q. I see it has typed Chris J.</p> <p>3 Gasteier, but then above that, that's</p> <p>4 not your signature?</p> <p>5 A. No, it's not.</p> <p>6 Q. Okay. Whose is that?</p> <p>7 A. It looks to be Mr. Gunner's</p> <p>8 signature, if I can read the</p> <p>9 handwriting.</p> <p>10 Q. On behalf of Chris Gasteier?</p> <p>11 A. Yes.</p> <p>12 Q. Were you actually physically</p> <p>13 in the district on June 15th?</p> <p>14 A. No, I was not.</p> <p>15 Q. Where were you?</p> <p>16 A. In Boston, Massachusetts</p> <p>17 attending my nephew's wedding.</p> <p>18 Q. Okay. So do I understand</p> <p>19 that you had written this letter --</p> <p>20 A. Yes.</p> <p>21 Q. -- but asked Mr. Gunner to</p> <p>22 sign it --</p> <p>23 A. Yes.</p> <p>24 Q. -- because you weren't there?</p> <p>25 A. Yes.</p>	<p>1 before.</p> <p>2 Q. Okay. Did you have any</p> <p>3 understanding whether she had been</p> <p>4 disciplined in any other --</p> <p>5 A. I believe that there had</p> <p>6 been an incident at the middle school --</p> <p>7 Q. Okay.</p> <p>8 A. -- when she had been there,</p> <p>9 yes.</p> <p>10 Q. And you weren't involved in</p> <p>11 that?</p> <p>12 A. I was not involved, but I</p> <p>13 was aware.</p> <p>14 Q. Okay. And so because of</p> <p>15 that --</p> <p>16 A. This was another instance,</p> <p>17 and I felt it needed to be documented.</p> <p>18 Q. Okay. And then forwarded to</p> <p>19 the superintendent?</p> <p>20 A. Yes.</p> <p>21 Q. Do you have any understanding</p> <p>22 as to what discipline ultimately the</p> <p>23 superintendent imposed?</p> <p>24 A. I believe he gave me a copy</p> <p>25 of that.</p>
Page 547	Page 549
<p>1 Q. Okay. What was it that you</p> <p>2 stated in this letter after follow-up on</p> <p>3 that June 9 meeting?</p> <p>4 A. Again once -- again talking</p> <p>5 before the date being the 4th instead of</p> <p>6 the 3rd for the Thursday, talking about</p> <p>7 meeting with the student. And then</p> <p>8 would recommend to the superintendent</p> <p>9 that disciplinary action be taken for</p> <p>10 the sleeping.</p> <p>11 Q. Okay.</p> <p>12 A. And when I was referring to</p> <p>13 the discipline -- I can't necessarily</p> <p>14 discipline a teacher in that way.</p> <p>15 Q. In what way?</p> <p>16 A. Suspending them.</p> <p>17 Q. Okay.</p> <p>18 A. I can recommend to the</p> <p>19 superintendent.</p> <p>20 Q. Did you have any</p> <p>21 understanding as to whether Mrs. Smith</p> <p>22 had been disciplined previous to this</p> <p>23 incident for any misconduct?</p> <p>24 A. Not in my building, aside</p> <p>25 from the conversation that we had had</p>	<p>1 Q. Turn to Exhibit 35. Is that</p> <p>2 the copy of the discipline?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And what was the</p> <p>5 discipline?</p> <p>6 A. 10 day suspension from</p> <p>7 school.</p> <p>8 Q. Unpaid?</p> <p>9 A. Unpaid.</p> <p>10 Q. When was that 10 day unpaid</p> <p>11 suspension served?</p> <p>12 A. At the beginning of the</p> <p>13 following school year.</p> <p>14 Q. Okay. So she was not in</p> <p>15 class for the first 10 days?</p> <p>16 A. Correct. I believe it would</p> <p>17 have started during the teacher days.</p> <p>18 Q. Okay.</p> <p>19 A. Which we have the staff days</p> <p>20 that we have at the beginning of the</p> <p>21 year.</p> <p>22 Q. Okay.</p> <p>23 A. So seven days of class,</p> <p>24 three days of staff training.</p> <p>25 Q. Okay. At the beginning of</p>



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<p>1 the school year, is there typically 2 communications between teachers and 3 administration as far as preparation for 4 class, setting up class, anything like 5 that? 6 A. Yes. 7 Q. Okay. And what is that 8 communication? 9 A. First of all, we go over the 10 handbook. We go over the contract 11 during our faculty meeting that we have. 12 Q. I guess. I'm sorry. Maybe 13 I'm not being clear in my question. 14 A. Well, in terms of that, it's 15 the expectations that I have of them 16 during the course of the year in terms 17 of lesson plans, deadline, am I -- 18 Q. I guess, are you -- do you 19 typically hear from teachers to make 20 sure that they're going to be present at 21 class teaching? 22 A. Yes. 23 Q. Okay. 24 A. I've never had anybody not 25 talk to me -- I shouldn't say that.</p>	<p>1 of weeks. 2 Q. Okay. Again did that cause 3 you some concern? 4 A. Enough that I asked my 5 secretary to contact her, yes. 6 Q. Okay. 7 A. Because I wasn't sure if I 8 should get a sub for they next day, 9 since I had not heard. 10 Q. Okay. And it looks like you 11 forwarded it to the superintendent, as 12 well? 13 A. Yes. Because I didn't know 14 if he'd heard, if he had any 15 communication that I hadn't, so I just 16 wanted to make sure that we were all in 17 the loop. 18 Q. Okay. What room assignments 19 did Mrs. Smith have for the 2009/2010 20 school year? 21 A. She would have been in 22 business and accounting in 702, and in 23 -- social studies, modern world history 24 in room 605. 25 Q. Okay. If you could turn,</p>
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<p>1 But I have every expectation that a 2 teacher would tell me if they're not 3 going to be there. 4 Q. Okay. Had Mrs. Smith 5 contacted you in that lead -- 6 A. No. 7 Q. -- up to the start of the 8 school year? 9 A. No. 10 Q. Did you have any concerns 11 because you had not heard from Mrs. 12 Smith prior to the start of the school 13 year? 14 A. I was aware that she had a 15 10 day suspension, but I was also aware 16 that she was coming back, but I'd heard 17 nothing from her with respect to that. 18 Q. Would you turn to Exhibit 19 47, please. What is Exhibit 47? 20 A. An e-mail, a series of 21 e-mails from myself to my secretary. 22 Down at the bottom I ask in the 23 original one, could you please contact 24 her, and return to her school tomorrow. 25 I have not heard from her in a couple</p>	<p>1 please, to the very last document in 2 that book, Exhibit 101. And that folds 3 out. 4 It's my understanding that 702 is 5 on the second floor? 6 A. Yes, sir. 7 Q. Okay. And that would -- and 8 then that sort of refers on the bottom 9 right-hand side of the document, bottom 10 right-hand side? 11 A. I'm sorry? 702 here. 12 Q. Yes. Yeah. 13 A. Bottom right-hand side. 14 Q. Yes. 15 A. Yes. Okay. I see what 16 you're saying. Okay. 17 Q. Your other right. 18 A. Yeah, thank you. 19 Q. And but physically placing 20 that on the building 702 would be above 21 where the main office is? 22 A. Yeah, it would be -- yes. 23 Q. Okay. 24 A. Roughly where number 5 is 25 there.</p>



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<p>1 Q. Okay. And then 605 is in 2 the top left-hand corner of the 3 document? 4 A. Correct. 5 Q. Okay. Had you ever observed 6 Mrs. Smith in the hallway late to her 7 5th period class in 605? 8 A. Yes. 9 Q. Okay. And do you recall 10 when that was? 11 A. Sometime during the fall of 12 the 2009/2010 school year. 13 Q. Okay. Did you -- 14 A. I would say September, 15 October, sometime thereabouts. I don't 16 recall. 17 Q. Did you send any written 18 correspondence or e-mail to Mrs. Smith 19 about that? 20 A. I spoke to her in the 21 hallway. 22 Q. Okay. Could you turn to 23 Exhibit 48, please. 24 A. Yes. 25 Q. Can you identify that</p>	<p>1 Q. Okay. Did Mrs. Smith make 2 any request of you to change room 3 assignments? 4 A. Not at this time. 5 Q. Did she make a request at 6 another time to change room assignments? 7 A. No. 8 Q. Okay. Did you at some point 9 in the school year learn about an 10 incident involving a discussion of 11 pornography in her history class? 12 A. Yes. 13 Q. Who told you that? 14 A. Beth Martinez, our parapro. 15 Q. She's a paraprofessional? 16 A. She's a paraprofessional. 17 Q. And what is paraprofessional? 18 A. A paraprofessional in her 19 situation is a -- or is a person who's 20 assigned to a one on one with a 21 particular student who has an IEP. 22 Q. Okay. And IEP is an 23 individual educational plan? 24 A. An -- yes, sir. 25 Q. So that essentially is</p>
Page 555	Page 557
<p>1 document for me, please? 2 A. That's an e-mail written from 3 me to Mrs. Smith. 4 Q. Okay. And what was -- what 5 was the subject of this e-mail? 6 A. Very similar to what I spoke 7 to her in the hallway, that this is a 8 reminder that her 5th -- actually this 9 particular one was shortly after she 10 returned to school. 11 Q. Okay. 12 A. And she had not been present 13 in one of these periods, 5 A or B or 14 study hall. She was unclear as to when 15 she was supposed to be there and she 16 was late getting there. 17 Q. Okay. 18 A. And it was an e-mail to her 19 saying that she was the teacher who was 20 in the supervisory role and she should 21 be there. 22 Q. Okay. So this would have 23 been a separate incident from when you 24 spoke to her in the hall? 25 A. Yes.</p>	<p>1 someone to help with the education of a 2 student who might have some special 3 needs -- 4 A. Yes, sir. 5 Q. -- with their education? 6 Okay. And what was it that Ms. 7 Martinez told you? 8 MR. SHOUB: Objection. Hearsay. 9 THE ARBITRATOR: Sustained. 10 Q. Okay. After Mrs. Martinez 11 spoke to you, what did you do next? 12 A. I took notes while I was 13 speaking with Mrs. Martinez. And at the 14 time that she came down, it was at the 15 end of the day, and I could not contact 16 the students that she had given to me, 17 the names. It was on a Friday, I 18 believe. 19 Q. Okay. The following week, 20 what was your schedule like? 21 A. It was very busy. I had 22 attended a funeral for the father of one 23 of our teachers. I was in Columbus on 24 Tuesday. And on Wednesday I left for 25 San Diego, California, with a number of</p>



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<p>1 other students -- or excuse me, a number 2 of other faculty members from the high 3 school. 4 Q. Did you have an opportunity 5 to investigate anything that you 6 discussed with Mrs. Martinez? 7 A. No, I did not. 8 Q. Okay. Are at some point, 9 however, the superintendent began to 10 investigate those allegations? 11 A. Correct. 12 Q. Did he speak with you about 13 the investigation? 14 A. He called me on my cell 15 phone while I was in San Diego. 16 Q. Did you have any 17 understanding as to whether he'd begun 18 an investigation while you were gone? 19 A. I'm sorry? 20 Q. Did you have any 21 understanding as to whether he'd begun a 22 investigation while you were in San 23 Diego? 24 A. Not until that point. 25 Q. Okay. When did you return</p>	<p>1 Q. Okay. And as a result of 2 that meeting, what happened next? 3 A. I shared with him the notes 4 that I had taken. We discussed what he 5 had done the previous week and the 6 communication that he'd had. And we 7 determined that we needed to talk to the 8 students about the incident. 9 Q. Okay. Was there any 10 decision made with respect to whether 11 Mrs. Smith would continue to work in the 12 classroom during this investigation? 13 A. I was asked to go up and get 14 Mrs. Smith and have her come down to my 15 office where we would have that 16 discussion. 17 Q. Okay. And what happened as 18 a result of that discussion? 19 A. I asked her for her keys and 20 her entrance key into the building. And 21 explained to her that until the 22 investigation was over, that she was 23 going to be, I believe, I'm not sure, 24 on paid suspension. 25 Q. Okay. Was she relieved of</p>
Page 559	Page 561
<p>1 back to the district? 2 A. I don't think it was until 3 Friday or Saturday. I'm trying to 4 think. I'd have to look at my 5 calendar. 6 Q. If it was Friday, it would 7 have been after the school day? 8 A. Oh, yeah. Yeah. Because I 9 think -- let's see, Wednesday. No, it 10 had to be -- it had to be very late 11 Friday evening or Saturday. 12 Q. Or Saturday morning? 13 A. Because I think the 14 conference ended Friday, so it was 15 probably very late, yeah. 16 Q. Okay. Over the weekend, did 17 you and the superintendent have any 18 discussions about his investigation to 19 that point? 20 A. He had -- no. He had told 21 me that we would meet upon my return to 22 school on Monday. 23 Q. Okay. Did the two of you 24 then meet on Monday? 25 A. Yes.</p>	<p>1 her duties with pay? 2 A. I believe so. 3 Q. Okay. If you could turn, 4 please, to Exhibit 55. 5 THE ARBITRATOR: 55? 6 MR. WILLIAMS: Yes. 7 Q. Can you identify Exhibit 55? 8 A. Yes. 9 Q. And what is it? 10 A. I had gone up to get Mrs. 11 Smith at the beginning of the school day 12 and asked her to come down to my 13 office. And this letter was given to 14 her at that time in my office with Mr. 15 Gunner, and I believe Mr. Gerber 16 present, as well. 17 Q. Okay. 18 A. With the building -- he 19 served as building rep, but he was also 20 PEA president. 21 Q. And the first line says, you 22 are hereby relieved from your duties 23 with pay pending the outcome of my 24 investigation into allegations that you 25 engaged in inappropriate discussions</p>



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<p>1 with your high school social studies 2 class regarding pornography? 3 A. Yes. 4 Q. Okay. There's a handwritten 5 note on the side. Whose handwriting is 6 that? 7 A. It's not mine. 8 Q. Okay. Do you know whose it 9 is? 10 A. Well, it's not Mr. Gerber's, 11 either, so it's got to be Mr. Gunner's. 12 Q. Okay. But that's not your 13 handwriting? 14 A. That is not my handwriting. 15 Q. Okay. 16 A. But it -- no, it's not. 17 Q. Okay. Do you recall Mrs. 18 Smith being asked for lesson plans? 19 A. I had asked -- well, we had 20 asked for her laptop. And there were 21 -- it was asked if there were any 22 lesson plans present, since she was not 23 going to be there. And I believe she 24 said she was in the process of writing 25 them, and asked for a few moments to do</p>	<p>1 Yeah. We asked them to come on 2 in and explained to them that we would 3 like them to speak to us, but write 4 something down first, okay, what they 5 saw, if anything was unusual in the 6 class that day. 7 And then we separated them, took 8 them outside. One was put in a desk 9 right outside my office, out of the way 10 of the office traffic. Another one was 11 put in what our records room was. And 12 another one was put in the cubby back 13 by the teachers' mailboxes. 14 Q. Okay. So that's three. Was 15 there a place for a fourth student to 16 go? 17 A. I think we just -- I can't 18 recall whether we called three or four 19 down at a time. But if -- the fourth 20 one would have -- we have another 21 student area desk off to the side or 22 guidance area. 23 Q. Okay. 24 MR. WILLIAMS: Can we go off the 25 record for a second.</p>
Page 563	Page 565
<p>1 that or finish grading some papers, one 2 of the two. 3 Q. Okay. Did you ever get any 4 lesson plans from Mrs. Smith? 5 A. No. 6 Q. The rest of the day, was 7 there any additional investigation done 8 of this matter? 9 A. Yes. 10 Q. And what was that 11 investigation? 12 A. Proceeded to call some 13 students done. 14 Q. Okay. Tell me how that 15 worked. 16 A. We -- let me get a drink 17 first. We got a roster of all the 18 students in her class, and broke it up 19 into threes or fours, so that we could 20 contact them, have them come down. They 21 would come into my office, where Mr. 22 Gunner and myself were present. We 23 would speak to them and told them that 24 we were looking -- is there something 25 beeping? Excuse me.</p>	<p>1 (Discussion off record.) 2 Q. After the students were 3 separated to write up their statements, 4 what would happen next as far as that 5 investigation? 6 A. One by one they were called 7 in. First of all, we told them, you 8 know, nobody is any trouble and we're 9 just here to find some things out. 10 And when we had them come in, we 11 would read what they had written. And 12 then they were asked if they'd noticed 13 anything unusual happen. And I believe 14 the date was March 19th. I could be 15 off, but it was thereabouts on that 16 particular day. 17 Q. Okay. 18 A. And asked them to describe 19 that. 20 Q. Okay. Did you ask them any 21 other questions, were any other 22 questions asked of them as part of that? 23 A. Depending upon what they 24 said, yes. If there was information 25 that they gave to us about that</p>



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<p>1 particular instance, about pornography, 2 okay, because many of them did mention 3 that. Many of them went on to discuss 4 how it happened, the time that it 5 happened, what the setting of the class 6 was -- 7 Q. Okay. 8 A. -- at that time. 9 Q. During the time that -- and 10 these students were questioned 11 individually? 12 A. Uh-huh, yes, sir. 13 Q. Okay. So there wasn't -- 14 when you were questioning the students, 15 you weren't questioning them as a group? 16 A. Behind closed doors one at a 17 time. 18 Q. Okay. And you had their 19 statement at that point -- 20 A. Yes. 21 Q. -- when you questioned them? 22 A. Yes. 23 Q. Had you and Mr. Gunner 24 reviewed that statement prior to 25 questioning them or as part of</p>	<p>1 we were questioning the students my 2 office. 3 Q. These were the notes you 4 were just referring to? 5 A. Yes, sir. 6 Q. Okay. Explain these notes, 7 please, to me. 8 A. My methodology there was the 9 question marks on the left-hand column 10 would be things that I would be asking 11 students or that we asked every student, 12 who said what, who did you speak to, 13 what type of work were you getting in 14 class, describe the incident down -- 15 halfway down the page, et cetera. 16 And then I also started, while 17 the students were talking to us, I 18 started to make some marks, like you do 19 1, 2, 3, 4, slash 5 in terms of the 20 number of times -- that is me -- in 21 terms of the number of times that 22 students were repeating things, 23 different students were repeating 24 things. 25 Q. Okay. Toward the bottom</p>
Page 567	Page 569
<p>1 questioning them? 2 A. Mr. Gunner read it, and then 3 I would look at it when he was done. 4 Q. Okay. As the students were 5 being questioned that day, did either 6 you or Mr. Gunner take notes? 7 A. I did. Because we 8 determined that as we were going through 9 this -- well, I think Mr. Gunner took 10 notes, too. I took several notes just 11 on a sheet of paper, because he had 12 determined that he didn't think he was 13 going to be able to stay through 14 questioning of all the students. And so 15 I wanted to have a general guideline of 16 what the questioning was that he was 17 doing and that we were doing together. 18 And I did take a few notes, too, in 19 terms of similarities to what the 20 students were saying. 21 Q. Can you turn to Exhibit 54, 22 please. Can you identify Exhibit 54? 23 A. That is my handwriting. 24 Q. And -- 25 A. From the 29th of March when</p>	<p>1 there's some places where there's 2 question marks and there's some lines 3 where there's not, such as yellow 4 journalism, porn conversation at the end 5 of class. What were those two remarks 6 in particular, yellow journalism and 7 porn conversation at the end of the 8 class, what are those referring to? 9 A. Comments that students had 10 made. 11 Q. Okay. 12 A. And I stopped keeping -- 13 those comments were made by a number of 14 students. I stopped keeping the little 15 slash marks early on. 16 Q. Okay. So you said that 17 these were your notes from that day, and 18 this would be March 29? 19 A. Yes. 20 Q. The superintendent you said 21 was also taking notes? 22 A. I believe so. 23 Q. And how was he doing that? 24 A. I believe on computer. I'm 25 not sure.</p>



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<p>1 Q. Did you see him with a 2 laptop computer? 3 A. Yes. 4 Q. Okay. And was he typing on 5 the laptop computer? 6 A. Yes. 7 Q. Okay. Did you finish all of 8 the student interviews on the 29th? 9 A. No. 10 Q. Okay. So what then happened 11 after the interviews that were done that 12 day, was there any further investigation 13 done? 14 A. I did a few the next 15 morning. I think I tried to -- I think 16 I completed them all the following 17 morning. 18 Q. Okay. 19 A. By myself, Mr. Gunner had 20 another appointment. 21 Q. Did you take notes of your 22 conversations with the students? 23 A. Yes. I took notes on paper 24 to give to Mr. Gunner later. 25 Q. Okay. If you could turn,</p>	<p>1 students were brought down? 2 A. Asked them to come down, 3 didn't ask them all at once. Broke 4 them up into two or three different 5 groups. And had them come in in a 6 small group, talked to them, and then 7 separate them out to write a statement. 8 And then bring them back individually 9 one on one in my office. 10 Q. Okay. And when you had them 11 in one by one, did you then interview 12 them? 13 A. After I read what they had 14 written, yes. 15 Q. Okay. 16 A. I asked some or all of these 17 questions of each one. 18 Q. Did you take notes of those 19 interviews? 20 A. Yes, I did. 21 Q. If you turn, please, to 22 Exhibit 82. Are you able to identify 23 what Exhibit 82 is? 24 A. This is a -- 25 MR. SHOUB: I'm going to object.</p>
Page 571	Page 573
<p>1 please, to Exhibit 81. 2 MR. SHOUB: I'm sorry, what 3 number? 4 MR. WILLIAMS: 81. 5 A. Yes. 6 Q. Can you identify Board 7 Exhibit 81? 8 A. That's my handwriting once 9 again. These questions I kind of took 10 from the sheet that we were just at to 11 put them in order to give me a rough -- 12 excuse me -- sequence of questions to 13 ask the students. 14 Q. Okay. So you used this as 15 your guideline of how you were going to 16 question students that day? 17 A. Yes, sir. 18 Q. About how many students did 19 you interview on the 30th? 20 A. Roughly half a dozen. I 21 can't be sure of the exact number, but 22 it was roughly half a dozen I believe 23 that we still had left. 24 Q. Did you follow the same 25 procedure on the 30th as far as how</p>	<p>1 I think some foundation needs to be laid 2 for this before he can answer any 3 questions about. 4 THE ARBITRATOR: Well, you can 5 answer. Answer. You can answer the 6 question. And then we'll see where your 7 objection is going to go. 8 A. Could you repeat your 9 question, please. 10 Q. Can you identify Exhibit 82? 11 A. These are students' 12 statements that they've written in my 13 response to my calling them down that 14 day. 15 Q. Okay. Do you know who this 16 statement was from? 17 A. I know the student, yes. 18 Maddie Torres -- 19 Q. Okay. 20 A. -- is a student in her 5th 21 period class. 22 Q. Okay. Did you interview 23 Maddie Torres? 24 A. I don't recall having her 25 come in.</p>



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<p>1 Q. Okay. Would there have been</p> <p>2 a reason why you would not have</p> <p>3 interviewed her?</p> <p>4 A. She might not have been</p> <p>5 available. She might have left early.</p> <p>6 I don't know.</p> <p>7 Q. Okay. What time of the day</p> <p>8 did you have students come down on the</p> <p>9 30th?</p> <p>10 A. First thing in the morning.</p> <p>11 But students leave at all times of the</p> <p>12 day --</p> <p>13 Q. Okay.</p> <p>14 A. -- for appointments or</p> <p>15 otherwise.</p> <p>16 Q. So she might have left, and</p> <p>17 because of that, you then didn't</p> <p>18 interview her --</p> <p>19 A. That's correct.</p> <p>20 Q. -- is that your reason for</p> <p>21 that?</p> <p>22 Okay. Did you do anything with</p> <p>23 this statement after you received it?</p> <p>24 A. I believe I forwarded it to</p> <p>25 Mr. Gunner.</p>	<p>1 basis, I'm going to sustain his</p> <p>2 objection.</p> <p>3 MR. WILLIAMS: I guess I don't</p> <p>4 understand. That this has not been</p> <p>5 authenticated by him?</p> <p>6 THE ARBITRATOR: Correct.</p> <p>7 Q. Are you able to state that</p> <p>8 this is Maddie --</p> <p>9 A. Well, she was called down,</p> <p>10 otherwise she wouldn't have written a</p> <p>11 statement.</p> <p>12 Q. Okay. Are you able to say</p> <p>13 that this is Maddie Torres' statement to</p> <p>14 you?</p> <p>15 A. To the best of my knowledge,</p> <p>16 yes.</p> <p>17 Q. Do you have any reason to</p> <p>18 think that it's not her statement?</p> <p>19 A. No.</p> <p>20 THE ARBITRATOR: Well, when you</p> <p>21 say to the best of your knowledge, you</p> <p>22 don't remember asking her any questions?</p> <p>23 THE WITNESS: I remember speaking</p> <p>24 with her at the beginning when I met</p> <p>25 with the group of students.</p>
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<p>1 Q. Okay. Did you do anything</p> <p>2 further with it?</p> <p>3 A. No.</p> <p>4 Q. Okay. Did you review it or</p> <p>5 take any action?</p> <p>6 A. I read it.</p> <p>7 Q. Okay. Did you take any</p> <p>8 action based upon it other than forward</p> <p>9 it to Mr. Gunner?</p> <p>10 A. Not that I recall.</p> <p>11 Q. Okay.</p> <p>12 THE ARBITRATOR: Your objection</p> <p>13 is as to what, as to what's contained</p> <p>14 in the statement? Let's get your</p> <p>15 objection on the record.</p> <p>16 MR. SHOUB: Well, number 1,</p> <p>17 there's no evidence, I have not heard</p> <p>18 any evidence that he knows that this is,</p> <p>19 in fact, Maddie Torres' statement.</p> <p>20 THE ARBITRATOR: You don't</p> <p>21 believe that you interviewed this</p> <p>22 student?</p> <p>23 THE WITNESS: I don't recall,</p> <p>24 sir.</p> <p>25 THE ARBITRATOR: Okay. On that</p>	<p>1 THE ARBITRATOR: Okay.</p> <p>2 THE WITNESS: But I don't</p> <p>3 remember speaking with her individually</p> <p>4 afterwards.</p> <p>5 THE ARBITRATOR: Well, didn't you</p> <p>6 testify initially that the students were</p> <p>7 asked to write a statement?</p> <p>8 THE WITNESS: Yes. Yeah.</p> <p>9 THE ARBITRATOR: And then you</p> <p>10 would interview them?</p> <p>11 THE WITNESS: Yes.</p> <p>12 THE ARBITRATOR: All right. So</p> <p>13 you said you remembered speaking to her</p> <p>14 initially?</p> <p>15 THE WITNESS: When I would have</p> <p>16 three students come in at a time, and</p> <p>17 then asked them to leave and go write</p> <p>18 their statements.</p> <p>19 THE ARBITRATOR: All right. So</p> <p>20 you remember her coming in?</p> <p>21 THE WITNESS: Yes.</p> <p>22 THE ARBITRATOR: But you don't</p> <p>23 remember anything after that?</p> <p>24 THE WITNESS: No, I don't.</p> <p>25 THE ARBITRATOR: All right. Is</p>



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<p>1 this how you're going to attempt to get 2 every statement in of these witnesses? 3 MR. WILLIAMS: This is for this 4 one. I don't have interview notes for 5 this one. The next one I do have 6 interview notes for and was going to 7 discuss it. 8 MR. SHOUB: I will raise the 9 objection now. And my objection is, the 10 statements are hearsay of the students. 11 The notes appear to be taken by either 12 Mr. Gasteler or Mr. Gunner, have not yet 13 testified, but I assume that you're 14 going to offer testimony of his notes. 15 Those are hearsay. 16 MR. WILLIAMS: I guess I would 17 disagree the notes are hearsay. The 18 individual who took the notes is here to 19 testify as to those notes. Those are 20 not hearsay. 21 MR. SHOUB: But notes about 22 statements made by a witness who's not 23 going to be here to testify. 24 MR. WILLIAMS: If I can respond. 25 Part of the principal's or</p>	<p>1 I mean, this is -- I understand 2 -- well, my objection is that the notes 3 are hearsay. The statements are 4 hearsay. And it's not credible evidence 5 to use in a case of this seriousness in 6 which a teacher's career is at stake. 7 That's my objection. 8 THE ARBITRATOR: All right. I 9 absolutely agree with you. These are 10 hearsay, if the people are not coming 11 in. I'm going to give them the value 12 that I wish to place on them. 13 MR. SHOUB: I understand. I'm 14 just making a record. 15 THE ARBITRATOR: Right. No, I 16 know. 17 MR. SHOUB: I just want to be 18 sure the record is protected and make 19 the objection. And I don't need to 20 make it for each exhibit, is that fair? 21 THE ARBITRATOR: No, I agree. 22 No, you don't have to make it for -- 23 MR. SHOUB: I fully protected my 24 record, that if these -- these documents 25 are going to be admitted, I want my</p>
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<p>1 superintendent's job in conducting the 2 investigation is to take notes of that 3 investigation. That's what Mr. Gasteler 4 just spent five minutes testifying to as 5 to how he conducted this investigation, 6 the set for the investigation, what was 7 asked as part of that investigation and 8 the reason for the investigation. 9 THE ARBITRATOR: You know what, I 10 -- in an administrative hearing I can 11 take hearsay. Obviously it's not going 12 to get the value or the amount of 13 emphasis of other evidence where the 14 witnesses come in live. 15 However, both parties are free to 16 subpoena these witnesses, if you want 17 them to come in and testify with regard 18 to these statements. 19 MR. SHOUB: Well -- 20 THE ARBITRATOR: Go on. 21 MR. SHOUB: I mean, Mrs. Smith 22 doesn't have the burden of proof in this 23 case. It's not our obligation to 24 subpoena these students in to testify in 25 support of their case.</p>	<p>1 objection about them straight up right 2 now that they're not admissible as 3 hearsay. And I understand -- 4 THE ARBITRATOR: I agree with 5 you. 6 MR. SHOUB: Okay. 7 THE ARBITRATOR: I'm taking them 8 for the limited purpose of what I wish 9 to place on them as far as being 10 hearsay statements. 11 MR. WILLIAMS: And if I can just 12 respond in part to the hearsay evidence 13 objection, and part of my reason for 14 asking Mr. Gasteler for what he relied 15 upon this, to the extent that there -- 16 this is not being used as far as what 17 it states in here, but to testify as to 18 what reliance or what actions were taken 19 by the administrators in making the 20 recommendations. It shows their state 21 of mind and goes to their state of mind 22 as to whether they had a basis for 23 taking certain actions or making certain 24 recommendations. And I think that is 25 not a hearsay issue, but is an issue as</p>



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<p>1 to what Mr. Gasteier did something with 2 this or if Dr. Gunner did something with 3 this. 4 MR. SHOUB: That's absolutely not 5 true. They're using these statements 6 for the very purpose that they assume 7 that they're true, to terminate Mrs. 8 Smith. 9 THE ARBITRATOR: Well, you're 10 stating to me that as far as I'm 11 concerned, you're not offering these for 12 the truth of what's contained in these 13 statements for these witnesses who are 14 not appearing? 15 MR. WILLIAMS: For this one we're 16 on right now, Maddie Torres, that's the 17 one we're talking about, I don't have 18 her here. She is not testifying. I 19 wanted to get at what the high school 20 principal had done in response to 21 receiving this statement. 22 THE ARBITRATOR: All right. Let 23 me put on the record, also, most of 24 these statements to me are not legible. 25 All right. So as far as what weight</p>	<p>1 being offered for the truth, then 2 they're irrelevant. But either way 3 they're, hearsay. And I understand your 4 ruling. 5 MR. WILLIAMS: Well, he said with 6 regard to this statement, he's not 7 offering it with regard to the truth of 8 the statement. 9 MR. SHOUB: It's irrelevant. 10 MR. WILLIAMS: And I would 11 disagree as to the relevancy, because 12 part of what the issue that comes to 13 the recommendation of termination is 14 whether or not there was a basis to 15 make that recommendation, did the 16 individuals making that recommendation 17 have a basis for making that 18 recommendation. 19 THE ARBITRATOR: All right. Go 20 on. I've made my ruling. Go on. 21 Let's go on with the questioning. 22 Q. Mr. Gasteier, if you would 23 turn to Exhibit 83, please. 24 A. Yes. 25 Q. And can you identify Exhibit</p>
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<p>1 I'm going to put on these, I can't read 2 half of these statements. 3 So for both parties, if you want 4 me to consider and put any weight on 5 any of these statements, I strongly 6 suggest that you bring in these 7 witnesses. Okay. 8 MR. WILLIAMS: Uh-huh. 9 THE ARBITRATOR: Am I clear on 10 this? 11 MR. SHOUB: Yes, I understand. 12 THE ARBITRATOR: I'm telling you 13 right now on the record, I'm going to 14 put next to nothing weight on these 15 statements. I'll let them come in, but 16 I'm going to put next to nothing weight 17 because, number 1, I can't read them. 18 And number 2, I think these witnesses 19 should come in if you want to offer 20 these, these statements. 21 MR. SHOUB: My objection is not 22 in any way intended to be disrespectful. 23 I just want to be sure that Mrs. 24 Smith's record in this case is 25 protected. You know, if they're not</p>	<p>1 83, the first page? 2 A. These are notes that I took 3 for a student who came in when I called 4 her down. 5 Q. And who is that student? 6 A. Bri Whitcomb. 7 Q. Okay. And these notes are 8 based upon what, your interview with 9 her? 10 A. Yes, sir. 11 Q. And what did you do with 12 these interview notes? What did you do 13 with these interview notes? 14 A. I forwarded them to Mr. 15 Gunner. Looked at them and then 16 forwarded them to Mr. Gunner. 17 Q. Okay. And the document 18 behind your notes, what is that, if you 19 can identify it? 20 A. That was the statement that 21 Bri Whitcomb gave to me prior to my 22 interview with her. 23 Q. Okay. And what did you do 24 with that statement? 25 A. Forwarded that to Mr. Gunner</p>



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<p>1 as a result of my part of the 2 investigation. 3 Q. Okay. If you would turn to 4 Exhibit 84, please. Can you identify 5 that first page, please? 6 A. Those are my notes from I 7 believe it's Sydney Wirsche. 8 Q. Okay. And your interview 9 with Ms. Wirsche? 10 A. Yes. 11 Q. And that was an interview on 12 -- it's not dated. Was that on March 13 30th, as well? 14 A. It would have been the date 15 that I asked -- I asked all the 16 students when they -- yes, it is. 17 Q. Okay. And then the second 18 page of that exhibit? 19 A. That would be her statement 20 that I asked her to write up -- 21 Q. Okay. 22 A. -- on March 30th. 23 Q. On March 30th. Okay. 24 Exhibit 85, can you identify the 25 first page of that document?</p>	<p>1 happened at that time? 2 A. All but one. 3 Q. Okay. When I say that 4 class, I'm referring to 5th period? 5 A. 5th period, modern world 6 history. 7 Q. Okay. And which was the one 8 student that was not asked for a 9 statement or interview? 10 A. Her grandson, Brian Kurtz. 11 Q. Okay. And why was he not 12 asked for a statement or interview? 13 A. In my role as high school 14 principal, being around for 28 years, I 15 had a conversation with Mr. Gunner, I 16 know the names of the students a little 17 bit better than he does at this point 18 in time, although he's learning them 19 rapidly. And I informed him that this 20 was her grandson, and in my opinion I 21 didn't think we needed to bring him into 22 this. 23 Q. Okay. So if I understand it 24 then, it wasn't as if you and the 25 superintendent selected just a couple of</p>
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<p>1 A. My notes from Amanda Wolf on 2 March 30th during my interview with her. 3 Q. Okay. And the document 4 behind that? 5 A. Amanda notes -- statement 6 from March 30th. 7 Q. Okay. And then Exhibit 86? 8 A. Jeremy Wright's statement 9 from March 30th about 3-19. 10 Q. Okay. And your interview of 11 him? 12 A. My interview notes, yes, sir. 13 Q. Okay. And then the document 14 behind that? 15 A. Jeremy Wright's statement 16 from that day. 17 Q. Okay. 18 A. March 30th. 19 Q. All right. Were those 20 interview notes, and there's a series of 21 other interview notes and statements 22 that we've not had you look at, to your 23 recollection was every student in that 24 class spoken to or interviewed or asked 25 to provide a statement as far as what</p>	<p>1 students? 2 A. No, we went through the 3 entire roster. 4 Q. Okay. Other than of course 5 Brian? 6 A. Well, his name was on the 7 roster, but we made that decision 8 mutually not to do that. 9 THE ARBITRATOR: What's his name, 10 Brian? 11 THE WITNESS: Brian Kurtz, 12 K U R T Z. Brian with a -- B R I A N. 13 THE ARBITRATOR: Okay. Thank 14 you. 15 THE WITNESS: Yes, sir. 16 Q. Based upon the interviews 17 that occurred and the statements that 18 were taken from the students, do you 19 have an understanding as to what 20 happened next with respect to Mrs. 21 Smith? 22 A. We determined that the 23 conversation of the 19th had occurred 24 from a number of students. And also a 25 number of students had told us, you</p>



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<p>1 know, that she was late to class. 2 Several students talked about her 3 sleeping in class. And those were items 4 that then the superintendent and I 5 discussed and that there would have to 6 be follow through on. 7 Q. Okay. And did you or he 8 ultimately follow through on that? 9 A. At this point in time it was 10 the superintendent, I believe. 11 Q. Okay. 12 A. My contact with her after 13 that was not very much. 14 Q. Okay. 15 A. Can I get some ice? 16 THE ARBITRATOR: Sure. 17 MR. WILLIAMS: Actually I don't 18 have any further questions, Mr. 19 Gasteler, at this point. 20 MR. SHOUB: Do you want to 21 break, Mr. Taich? I'm going to be a 22 while obviously with him. 23 THE ARBITRATOR: Yeah, you know 24 what, why don't we take -- is it 12:00? 25 Why don't we go to lunch and then come</p>	<p>1 I'm not going to get into judging 2 whether Mrs. Smith, her teaching 3 techniques, as far as whether she 4 lectures too much, doesn't lecture 5 enough, the things of that nature, those 6 aren't in the specifications. And the 7 majority of these statements deal with 8 points that aren't even relevant to this 9 case. 10 So once again I want to say that 11 if you want to call additional witnesses 12 as some of these students, let me know 13 and let him know that, you know, as far 14 as when he can have his witnesses 15 available. 16 As far as the statements going to 17 the issue of whether or not the district 18 conducted an investigation, they're 19 admissible for that purpose. That the 20 principal and the superintendent met 21 with these kids and took statements from 22 them and questioned them. I have no 23 problem with them coming in on that 24 basis. But as far as the truth in the 25 statements or in the notes, it's not</p>
Page 591	Page 593
<p>1 back and do the cross-examine. 2 MR. SHOUB: That's fine. 3 THE ARBITRATOR: Is that all 4 right? 5 (Recess had.) 6 THE ARBITRATOR: Before we start, 7 let me just reiterate my position again 8 on some of those statements, these 9 hearsay documents. I am willing to, if 10 we need an extra day, if you want to 11 call other witnesses, if the district -- 12 you know, as far as the district is 13 concerned, if you want to take part of 14 the first day or take all of the first 15 day from Grant's case, we'll make other 16 arrangements to come for an additional 17 day. 18 But if you basically want me to 19 consider some of the testimony of these 20 hearsay statements -- I mean, truthfully 21 I've read through the statements. I 22 would venture a guess that a large 23 portion of the statements, the evidence 24 is totally irrelevant to the 25 specifications in this case.</p>	<p>1 really that relevant of evidence to be 2 honest with you. 3 So I'm just leaving that, I'm 4 throwing it out there for both of you. 5 If you want to call more witnesses, we 6 can add an extra day, we can stay 7 later, I'll come earlier, whatever you 8 guys want. But you know how I feel 9 with regard to those statements right 10 now. And that goes for the teacher's 11 case, also, if you're planning on 12 introducing something without bringing 13 the people in here. 14 With that let's go to the 15 cross-examination. Unless either of you 16 has a comment you want to put on the 17 record with regard to it. I don't 18 know. It's up to you. 19 MR. WILLIAMS: My only comment, 20 thank you, would be I understand the 21 ruling of the referee on the issue of 22 the students' statements. I understand 23 and appreciate the referee's comments 24 with respect to the statements 25 evidencing an investigation performed.</p>



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<p>1 And the board's position is 2 that's the primary purpose for 3 introducing all of the statements. I'm 4 sure we've all been aware of cases where 5 there's an allegation that there was an 6 insufficient investigation, maybe all 7 students weren't questioned. And 8 there's inferences that someone tries to 9 draw from them.</p> <p>10 The board is attempting to show 11 that all students, save one in that 12 class, the teacher's grandson were 13 questioned as part of this 14 investigation. That statements were 15 taken and that interviews were conducted 16 of most of those students. And to show 17 the thoroughness of that investigation 18 is the primary purpose for introducing 19 these statements.</p> <p>20 MR. SHOUB: Just again I think I 21 made my position clear about the 22 statements in my earlier objection. The 23 only other thing I would note for the 24 record is, I don't think they're 25 admissible for the purpose of showing</p>	<p>1 but I feel like I'm in a tennis court. 2 Q. Well, pull the chair back, 3 if you want. 4 A. Okay. 5 Q. I don't -- I have no desire 6 to make you uncomfortable have to 7 testify looking back and forth, so. 8 THE ARBITRATOR: Yes, as long you 9 speak up loud enough. 10 THE WITNESS: Let me know if you 11 can't hear me. 12 Q. Whatever you want to do, 13 that's fine with me. 14 One of your responsibilities and 15 roles, as I understand it, as an 16 administrator like any other 17 administrator at Perkins Local School 18 District is to evaluate teachers, is 19 that correct? 20 A. Yes, sir. 21 Q. And you have had the 22 occasion a couple of times to evaluate 23 Mrs. Smith's job performance, is that 24 correct, as well? 25 A. Yes, sir.</p>
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<p>1 that the school district conducted an 2 investigation of this. I mean, there's 3 been testimony that they did. 4 Again I don't see the relevance 5 of those statements. And given the 6 prejudicial -- potential prejudicial 7 effect on Mrs. Smith's case, I again 8 think that none of the statements should 9 be admitted into the record, statements 10 or the notes, I'm sorry.</p> <p>11 THE ARBITRATOR: Okay. With 12 that, let's go to cross-examination. 13 EXAMINATION OF CHRIS J. GASTEIER 14 BY-MR.SHOUB: 15 Q. Mr. Gasteier, I'm going to 16 ask you a fair amount of questions. 17 And if at some point you don't 18 understand what I'm asking or if the 19 question just doesn't make sense, and 20 that's certainly possible, please tell 21 me, and I'll attempt to rephrase it. 22 Is that okay? 23 A. Okay. I'm going to -- 24 Q. That's fine. 25 A. I'm going to look at you,</p>	<p>1 Q. You have two books in front 2 of you. The blue, yes, the blue 3 notebook, if you don't mind, if you 4 would open that to Teacher's Exhibit 21. 5 Let me just make sure that I 6 understand the various rating standards. 7 There's four ratings standards for a 8 teacher's performance. One is exceeds 9 the district standards, and that's 10 referenced by the letter E, is that 11 right? 12 A. Yes. 13 Q. Meets the district standards, 14 that's referenced by the letter M? 15 A. Yes. 16 Q. Meets the district standards, 17 but improvement is recommended, and that 18 is an M/IR? 19 A. Yes. 20 Q. And the last category is 21 unacceptable, improvement required, and 22 that's designated as U/IR -- 23 A. Yes. 24 Q. -- is that correct? Okay. 25 Can you identify for me what is</p>



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<p>1 marked as T-21?</p> <p>2 A. I'm sorry, could you, T --</p> <p>3 Q. Yes. Exhibit 21.</p> <p>4 A. Oh, okay. This?</p> <p>5 Q. Yes. You see in the</p> <p>6 right-hand corner, yes, the whole</p> <p>7 document --</p> <p>8 A. Okay.</p> <p>9 Q. -- the right-hand corner.</p> <p>10 A. It's our observation</p> <p>11 evaluation form.</p> <p>12 Q. Okay.</p> <p>13 A. For Perkins schools.</p> <p>14 Q. And is this a form that you</p> <p>15 filled out on or about June 6th of 2007</p> <p>16 regarding Carol Smith?</p> <p>17 A. Yes.</p> <p>18 Q. And is this your evaluation</p> <p>19 of Mrs. Smith?</p> <p>20 A. Yes.</p> <p>21 Q. Let me finish the question</p> <p>22 first.</p> <p>23 A. Okay. Sorry.</p> <p>24 Q. Is this your evaluation of</p> <p>25 Mrs. Smith for the 2006/2007 school</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. And is that your</p> <p>3 signature on the last page of the</p> <p>4 document?</p> <p>5 A. Yes.</p> <p>6 Q. And it's fair to say that in</p> <p>7 none of the categories that you rated</p> <p>8 Mrs. Smith for the 2006/2007 school</p> <p>9 year, was any area of her job</p> <p>10 performance determined to be</p> <p>11 unacceptable?</p> <p>12 A. The categories that were</p> <p>13 marked with an X.</p> <p>14 Q. I'm sorry?</p> <p>15 A. Could you repeat the --</p> <p>16 Q. Sure. In looking through</p> <p>17 the document, and please take as much</p> <p>18 time as you need, it's my understanding</p> <p>19 in the 2006/2007 school year, there were</p> <p>20 no areas of Mrs. Smith's job performance</p> <p>21 as a school teacher at Perkins Local</p> <p>22 Schools that you found to be</p> <p>23 unacceptable?</p> <p>24 A. Not noted on this form, no.</p> <p>25 Q. Well, this is where it</p>
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<p>1 year?</p> <p>2 A. Yes.</p> <p>3 Q. And she taught keyboarding</p> <p>4 that year --</p> <p>5 A. Yes.</p> <p>6 Q. -- Is that correct?</p> <p>7 A. That was one of the classes</p> <p>8 that she taught.</p> <p>9 Q. What else did she teach that</p> <p>10 year?</p> <p>11 A. Business, accounting,</p> <p>12 business law, maybe Intro to business.</p> <p>13 Q. Okay. But this evaluation,</p> <p>14 nobody observed the class in</p> <p>15 keyboarding, the evaluation is meant to</p> <p>16 be an evaluation of her job performance</p> <p>17 in all areas for the 2006/2007 school</p> <p>18 year?</p> <p>19 A. In our observation form it</p> <p>20 states that even though it's primarily</p> <p>21 one class, and many -- much of it's</p> <p>22 taken or it can be taken over the</p> <p>23 entire performance of the teacher, yes.</p> <p>24 Q. Okay. And this is the form</p> <p>25 that you filled out, T-21, the exhibit?</p>	<p>1 should be noted, correct?</p> <p>2 A. It was not noted on this</p> <p>3 form. Yes.</p> <p>4 Q. If it was going to be noted,</p> <p>5 and if you were going to find she was</p> <p>6 unacceptable in some level of</p> <p>7 performance, this would be the form</p> <p>8 where that would appear?</p> <p>9 A. Let me qualify. You asked</p> <p>10 me about the Xs. There are things for</p> <p>11 recommendations that also appear on</p> <p>12 there.</p> <p>13 Q. Right. My only -- I'm</p> <p>14 trying to ask a simple question, and I</p> <p>15 don't mean to be confusing. There's no</p> <p>16 areas of her job performance that you</p> <p>17 found or rated to be unacceptable?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. Can you turn to</p> <p>20 Exhibit 22, T-22, the next exhibit in</p> <p>21 that book, the book in front of you.</p> <p>22 A. Yes.</p> <p>23 Q. Did you have any role in</p> <p>24 recommending or any involvement in Mrs.</p> <p>25 Smith being appointed as the senior</p>



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<p>1 class advisor for the Perkins High 2 School in 2007/2008? 3 A. I generally fill out green 4 forms for all supplementals. 5 Q. And what is a green form? 6 A. That is the recommendation 7 for a supplemental position to be 8 offered to either a lay person or a 9 teacher. 10 Q. Do you recall filling out a 11 green form for Mrs. Smith to be the 12 senior class advisory in 2007/2008? 13 A. Quite frankly, no, I do not, 14 sir. 15 Q. Okay. Any reason to believe 16 that you didn't? 17 A. At one point in time we were 18 not required to fill out green forms. 19 Q. Okay. Any recollection of 20 taking -- taking the position that Mrs. 21 Smith should not get this supplemental 22 limited contract for 2007/2008 as the 23 senior class advisor? 24 A. The position was RIF'd 25 earlier in the decade when we went</p>	<p>1 or opposing Mrs. Smith being selected as 2 on a 50 percent basis, half time basis 3 as the academic challenge advisor? 4 A. I believe I recommended that. 5 Q. Okay. And that's something 6 she had done for quite a number of 7 years, correct? 8 A. I'm trying to think. 9 Probably, yeah. 10 Q. Okay. 11 A. A number being more than 12 three, yes. 13 Q. Okay. And as I understand 14 it, the academic challenge team is made 15 up of gifted and talented students that 16 compete academically, I assume in 17 Northwest, Northeast Ohio against other 18 high schools in competitions? 19 A. I don't know if I'd go 20 gifted and talented. But the general 21 idea is, yes, they compete against other 22 schools. And it is a highly sought 23 after position by the intelligent 24 students of our district. 25 Q. Okay. And typically it's</p>
Page 603	Page 605
<p>1 through some hard financial times. 2 Q. But you didn't oppose Mrs. 3 Smith being appointed or selected as the 4 senior class advisor? 5 A. We already had a senior 6 class advisor in Mrs. -- Mr. Pawlowski. 7 And there was only one paid position. 8 I did not oppose her splitting the 9 position, if that was the choice, with 10 Mr. P., Pawlowski. 11 Q. Okay. Maybe I'm not asking 12 the question clearly enough. In terms 13 of the actual position, whether it was 14 full-time or half time, in terms of 15 Carol Smith serving as the senior class 16 advisor at the high school in the 17 2007/2008 school year, you did not 18 oppose her selection for that position? 19 A. I did not oppose it. 20 Can I add? I don't think I -- I 21 don't recall recommending it. 22 Q. Fair enough. 23 A. Okay. 24 Q. Exhibit 23, the next exhibit 25 in the book. Do you recall recommending</p>	<p>1 the high -- the students with high 2 grades -- 3 A. Typically, yes. 4 Q. -- and the highest test 5 scores -- 6 A. I'd say yes, typically. 7 Q. -- that are on this team? 8 THE NOTARY: I'm sorry. One at 9 a time, please. 10 Q. Typically it's the students 11 with the high test scores and the high 12 grades that make the academic challenge 13 team? 14 A. Yes. 15 Q. And as I understand it, this 16 team has been quite successful over the 17 years in terms of winning competitions 18 and being an overall successful 19 competitor in the area, is that a fair 20 statement? 21 A. They do well. 22 Q. Okay. 23 A. I was the academic advisor 24 at one time, so successful would be a 25 term that I would --</p>



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<p>1 Q. Well, do they actually</p> <p>2 compete and win things or not?</p> <p>3 A. Occasionally, yes.</p> <p>4 Q. Okay.</p> <p>5 A. Yes.</p> <p>6 Q. And they've done that?</p> <p>7 A. Yes.</p> <p>8 Q. While Mrs. Smith was one of</p> <p>9 the advisors?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. If you could look at</p> <p>12 Exhibit 24, Mr. Gasteler. Is this an</p> <p>13 evaluation that you did of Carol Smith</p> <p>14 on -- on or about November 18th, 2008?</p> <p>15 A. Yes.</p> <p>16 Q. And the same standards apply,</p> <p>17 the four grade levels, for lack of a</p> <p>18 better phrase, the E, the M, the IR --</p> <p>19 A. Yes.</p> <p>20 Q. -- and the U/IR?</p> <p>21 Okay. And this is the class --</p> <p>22 this is a class you observed, accounting</p> <p>23 1?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And is that your</p>	<p>1 Q. Okay. You testified that</p> <p>2 Mr. Bores and I think Mr. McVeigh and</p> <p>3 perhaps some others had a lot of concern</p> <p>4 or angst about Mrs. Smith coming in and</p> <p>5 being a social studies teacher for</p> <p>6 2009/2010, correct?</p> <p>7 A. Yes.</p> <p>8 Q. And I -- they put that in</p> <p>9 the context that they were worried that</p> <p>10 somehow their OGT scores would be</p> <p>11 lowered, because Mrs. Smith was coming</p> <p>12 in as a teacher?</p> <p>13 A. I can't refer exactly to the</p> <p>14 specific OGT test scores. I think that</p> <p>15 that is always a concern of my staff.</p> <p>16 And they may have made that comment,</p> <p>17 yes.</p> <p>18 Q. Is the compensation of Mr.</p> <p>19 Bores or Mr. McVeigh linked in any way</p> <p>20 to how well the students do on the OGT</p> <p>21 scores, tests?</p> <p>22 A. No, sir. No, sir.</p> <p>23 Q. In light of those concerns</p> <p>24 that Bores and McVeigh had, was there</p> <p>25 any period of time in the 2009/2010</p>
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<p>1 signature on the back of that exhibit?</p> <p>2 A. Yes.</p> <p>3 Q. And it's dated, looks like,</p> <p>4 December 2nd of 2008, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And again in looking through</p> <p>7 this evaluation, it's fair to say that</p> <p>8 in no level of Mrs. Smith's job</p> <p>9 performance for the 2007/2008 school</p> <p>10 year, in none of the areas that you</p> <p>11 evaluated her in was her job performance</p> <p>12 found to be unacceptable?</p> <p>13 A. Correct.</p> <p>14 Q. That's the last evaluation</p> <p>15 that's in Mrs. Smith's personnel file,</p> <p>16 I'm sorry, from the high school. Are</p> <p>17 you aware of any other evaluations of</p> <p>18 her job performance while she taught at</p> <p>19 Perkins High School since, since</p> <p>20 November of 2008?</p> <p>21 A. I'm not aware.</p> <p>22 Q. Okay. Do you have any</p> <p>23 recollection of evaluating her after</p> <p>24 November of 2008?</p> <p>25 A. Not right now I don't, sir.</p>	<p>1 school year that you observed Mrs. Smith</p> <p>2 in the classroom actually teaching</p> <p>3 social studies?</p> <p>4 A. Not officially in terms of</p> <p>5 the observation that we just looked at.</p> <p>6 But I did enter her classroom a number</p> <p>7 of times, yes.</p> <p>8 Q. For what purpose?</p> <p>9 A. To walk around the building</p> <p>10 and enter a classroom like I would any</p> <p>11 other teacher's classroom. We -- it</p> <p>12 was --</p> <p>13 Q. And did that include both</p> <p>14 the social studies, the 5th period</p> <p>15 social studies class as well as the</p> <p>16 study hall?</p> <p>17 A. Yes.</p> <p>18 Q. And at the time times that</p> <p>19 you entered her room in 2009/2010, she</p> <p>20 wasn't sleeping, right?</p> <p>21 A. No.</p> <p>22 Q. How many times have you</p> <p>23 entered the room during that period of</p> <p>24 time?</p> <p>25 A. I would say it would have to</p>



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<p>1 be more than half a dozen, less than 2 two dozen. I really don't know. 3 Q. Okay. Somewhere between six 4 and 12? 5 A. That's a fair -- 6 Q. I assume those are 7 unannounced? 8 A. Yes. 9 Q. I mean, she doesn't know 10 that you're coming? 11 A. I can't refer to every 12 instance. I may have called down and 13 told her I was coming. 14 Q. Generally you don't, correct? 15 A. Correct. 16 Q. Okay. At no time in either 17 of those two classes did you see her 18 asleep with her eyes closed or, quote, 19 unquote, dozing off? 20 A. Not in either of those two 21 classes. 22 Q. Okay. And prior to March 23 19th of 2010, you had no complaints -- 24 in the 2009/2010 school year, let me 25 make sure I have a reference point here,</p>	<p>1 keep any notes for anybody else on my 2 desktop, on my desk. 3 Q. Did you have them in a 4 separate folder for Carol Smith? 5 A. No. 6 Q. How were they are filed or 7 how were they kept? 8 A. These are half sheets, Ohio 9 STEM. I had a little pad on my desk. 10 Q. But what did you -- I mean, 11 does the pad have one page maybe about 12 Carol Smith and another pad page -- 13 A. Would be a phone call or 14 something else that I got for somebody 15 else. 16 Q. What was the purpose of 17 keeping it? 18 A. In this particular case 19 probably a note that I should at some 20 point try to talk to Carol, and let her 21 know that if -- and I did talk to her 22 about this. That if she's moving -- 23 just in passing, I did not write 24 anything down to her, it was not a memo 25 or an e-mail. But if she's going to</p>
Page 611	Page 613
<p>1 in the 2009/2010 school year, prior to 2 March of 2010, you had no complaints 3 about Mrs. Smith sleeping in class, 4 correct? 5 A. Could you repeat that again. 6 Q. Sure. 7 MR. SHOUB: Would you read that 8 back. 9 (Record read.) 10 A. In the 2009/2010 school year? 11 Q. Yes. 12 A. Not that I'm aware of. 13 Q. Okay. 14 A. Not that I can recollect. 15 Q. If you could open the other 16 exhibit book, Mr. Gasteier, the board's 17 exhibits. Exhibits 49 and 50, are those 18 notes of yours? 19 A. 49 and 50? 20 Q. Yes, sir. 21 A. Yes. 22 Q. Were you keeping a separate 23 file of documents regarding Carol Smith 24 in the 2009/2010 school year? 25 A. Just no more than I would</p>	<p>1 move from a room, we need to know, so 2 that a teacher who's moved their 3 classroom and has a student in there and 4 a parent calls, we need to know where 5 they're at. 6 Q. Your testimony is you were 7 not keeping and did not have a separate 8 file of documents that you maintained 9 regarding Carol Smith? 10 A. I have a file with teacher 11 concerns and student concerns. 12 Q. Okay. 13 A. That I would put things in. 14 Q. Things like Exhibit 49 and 15 -- or Exhibit 49 and 50? 16 A. Yes. 17 Q. Relating to teachers? 18 A. And students. 19 Q. Okay. Are you familiar with 20 the collective bargaining agreement 21 between the Perkins Education 22 Association and the school district? 23 A. Yes. 24 Q. I think it's Joint Exhibit 1 25 there in front of you, Mr. Gasteier.</p>



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<p>1 If you could turn to page 21, and the 2 personnel files. Just let me know when 3 you get there. 4 A. I'm on page 21. 5 Q. Okay. If you turn to page 6 22, section 901 G. Are you familiar 7 with that part of the contract? 8 A. Yes. 9 Q. Did you notify Carol Smith 10 of all of the documents and notations 11 you had regarding her during the 12 2009/2010 school year? 13 A. I notified her of some. I 14 can't be sure that everything that I 15 took a note on that was told to me by 16 everybody I spoke to her about. 17 Q. So there may be documents 18 that you were maintaining regarding 19 Carol Smith that were not shared with 20 her, and that she had no opportunity to 21 either respond to or be aware of, is 22 that a fair statement? 23 A. I would say document 50 -- 24 Q. Okay. 25 A. -- would be one.</p>	<p>1 performance? 2 A. I don't recall. 3 Q. Okay. Prior to March 19th 4 of 2010, Mrs. Smith was not under 5 investigation for anything, right? 6 A. Not that I'm aware of, sir. 7 Q. You had no complaints, as I 8 understand it, that school year up until 9 March of 2010 about her sleeping in 10 class or in study hall? 11 A. I had something that was 12 anonymous, but anonymous is anonymous. 13 Q. Did you share that with 14 Carol Smith? 15 A. No, because it was anonymous. 16 Q. Okay. You disregarded it? 17 A. I can't follow up with 18 anonymous. 19 Q. Okay. So the answer is, 20 leaving aside this anonymous complaint, 21 there were no complaints from anyone in 22 the 2009/2010 school year about Carol 23 Smith sleeping in class or in study 24 hall? 25 A. Not that I recall.</p>
Page 615	Page 617
<p>1 Q. That was not shared with 2 her? 3 A. Yes. 4 Q. Okay. Are you aware of any 5 others? 6 A. Not at this time, no. 7 Q. Did you have a discussion 8 with Mr. Bores and/or Mr. McVeigh in 9 December of 2009 regarding Carol Smith 10 and her job performance? 11 A. Her job performance? 12 Q. Or issues relating to her 13 job performance? 14 A. I could have. 15 Q. Did you take notes about 16 that conversation? 17 A. I don't recall. 18 Q. You didn't share any of that 19 information with Carol Smith, correct? 20 A. I don't recall the 21 conversation to recall. 22 Q. Fair enough. Okay. No 23 recollection of discussing with Carol 24 Smith any conversations you had with 25 Bores or McVeigh regarding Carol's job</p>	<p>1 Q. And you never observed it? 2 A. Correct. 3 Q. Was Mr. Dahlmann in and out 4 of her classroom and study hall during 5 the 2009/2010 school year? 6 A. I would assume so, but you'd 7 have to get that from Mr. Dahlmann. 8 Q. Fair enough. Fair enough. 9 Did he ever come to you with any 10 complaints during the 2009/2010 school 11 year about Carol Smith sleeping in class 12 or in study hall? 13 A. Not that I recall. 14 Could you -- could you repeat the 15 question about if I was aware of anybody 16 coming -- did you ask me if anybody -- 17 Q. Well, I think what I asked 18 you, and let me -- let me say what I 19 thought your answer was. I'm perfectly 20 content to ask you again. 21 I asked you, I thought, did you 22 have any complaints from anyone during 23 the 2009/2010 school year prior to March 24 19th about Carol Smith sleeping in class 25 or study hall?</p>



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<p>1 A. Okay.</p> <p>2 Q. You mentioned the one</p> <p>3 anonymous complaint that you dismissed,</p> <p>4 because it was anonymous. And you said</p> <p>5 you couldn't recall any others?</p> <p>6 A. I do recall another one.</p> <p>7 Q. Okay.</p> <p>8 A. And that was by an employee</p> <p>9 of the school who refused to follow up</p> <p>10 on it. And I asked him to put in it</p> <p>11 writing, and they did not.</p> <p>12 Q. So was that treated the same</p> <p>13 as an anonymous complaint from your</p> <p>14 standpoint?</p> <p>15 A. I couldn't do much about it</p> <p>16 without a statement.</p> <p>17 Q. You couldn't even go and</p> <p>18 approach Mrs. Smith and say, I'm hearing</p> <p>19 these things, there's something going</p> <p>20 on?</p> <p>21 A. Mrs. Smith and I had had</p> <p>22 that conversation prior to that school</p> <p>23 year at another time.</p> <p>24 Q. I'm talking now just about</p> <p>25 2009/2010 school year though.</p>	<p>1 believe he was.</p> <p>2 Q. And he could have</p> <p>3 investigated this, if somebody had</p> <p>4 determined it was serious enough,</p> <p>5 correct?</p> <p>6 A. That's possible.</p> <p>7 Q. Okay. That did not occur?</p> <p>8 A. Not to my knowledge.</p> <p>9 Q. Mrs. Smith was not removed</p> <p>10 from her class on March 19th after you</p> <p>11 first became aware of the allegation,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. And it wasn't even -- the</p> <p>15 fact of the matter is, it was never --</p> <p>16 prior to Mrs. Smith being relieved of</p> <p>17 her duties on the morning of March 29th</p> <p>18 of 2010, the allegation about what did</p> <p>19 or did not occur in the classroom on</p> <p>20 March 19th was never brought to Mrs.</p> <p>21 Smith's attention and then her having an</p> <p>22 opportunity to respond to it, correct?</p> <p>23 A. Not by me.</p> <p>24 Q. Okay. Are you aware of</p> <p>25 anybody else?</p>
Page 619	Page 621
<p>1 A. I did not approach her.</p> <p>2 Q. Fair enough. Now, as I</p> <p>3 understand it, was it on March 19th of</p> <p>4 2010 when you first became aware of some</p> <p>5 allegation regarding pornography in Mrs.</p> <p>6 Smith's 5th period social studies class?</p> <p>7 A. Was that a Friday?</p> <p>8 Q. It was a Friday.</p> <p>9 A. Yes.</p> <p>10 Q. And then as I understand</p> <p>11 your testimony, from Friday, March 19th,</p> <p>12 until Monday morning, March 29th, 2010</p> <p>13 there was no investigation conducted by</p> <p>14 you or anybody under your direct</p> <p>15 supervision regarding that allegation?</p> <p>16 A. That's correct.</p> <p>17 Q. Mrs. Smith was permitted to</p> <p>18 teach the entire week of March 19th,</p> <p>19 correct, yes?</p> <p>20 A. Yes. Sorry.</p> <p>21 Q. Okay. I know that you said</p> <p>22 you were out of town for part of that</p> <p>23 period of time. Was Mr. Dahlmann still</p> <p>24 in school?</p> <p>25 A. I was not at school, but I</p>	<p>1 A. I'm not aware.</p> <p>2 Q. Okay. Now, as I understand</p> <p>3 it, at some point during that week, I</p> <p>4 can't remember, did you tell me it was</p> <p>5 -- did you testify that it was March</p> <p>6 25th, a Thursday, that you got a call</p> <p>7 from Dr. Gunner? You don't remember.</p> <p>8 A. I can't recall.</p> <p>9 Q. That's fine.</p> <p>10 A. I can't recall the date.</p> <p>11 Q. Fair enough.</p> <p>12 A. All I know is I was in San</p> <p>13 Diego.</p> <p>14 Q. Okay. Was that an angry</p> <p>15 call from him?</p> <p>16 A. No.</p> <p>17 Q. Okay. I mean, was he sort</p> <p>18 of matter of fact, I just found out</p> <p>19 about this allegation about something</p> <p>20 that happened March 19th?</p> <p>21 A. He knew I was on a trip to</p> <p>22 see High Tech High.</p> <p>23 Q. Right.</p> <p>24 A. And I knew that if he was</p> <p>25 calling me, there was something that he</p>



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<p>1 wanted to talk about.</p> <p>2 Q. Okay. But he wasn't angry</p> <p>3 with you about anything?</p> <p>4 A. He had some questions for</p> <p>5 me, but no, I don't believe he --</p> <p>6 that's not how he operates.</p> <p>7 Q. The questions being, why</p> <p>8 wasn't something done about this sooner?</p> <p>9 A. No, what transpired.</p> <p>10 Q. What happened?</p> <p>11 A. To my knowledge.</p> <p>12 Q. Okay. Did he tell you he</p> <p>13 got a call or an e-mail message from a</p> <p>14 board member, and that's what led him to</p> <p>15 call you?</p> <p>16 A. I don't recall the exact</p> <p>17 scenario.</p> <p>18 Q. Okay. He did not share that</p> <p>19 with you?</p> <p>20 A. He might have.</p> <p>21 Q. Fair enough.</p> <p>22 A. He said that he had some</p> <p>23 information that he was following up on.</p> <p>24 Q. Okay. And was it your</p> <p>25 understanding from that conversation</p>	<p>1 Q. The decision making process,</p> <p>2 I'm just asking you, were you involved</p> <p>3 in that, did Dr. Gunner consult you, ask</p> <p>4 you your opinion?</p> <p>5 A. Yes.</p> <p>6 Q. Okay.</p> <p>7 A. I believe.</p> <p>8 Q. And it was that morning? Or</p> <p>9 was it before, before Monday the March</p> <p>10 -- when was the decision made to your</p> <p>11 recollection?</p> <p>12 A. I can't really recall the</p> <p>13 timeline at that point.</p> <p>14 Q. Okay.</p> <p>15 A. We had discussed a number of</p> <p>16 things. But at that time I was walking</p> <p>17 up some steps, not when we -- it was on</p> <p>18 the telephone, so.</p> <p>19 Q. The steps at the school or</p> <p>20 somewhere else?</p> <p>21 A. California.</p> <p>22 Q. Okay. Were you there the</p> <p>23 whole weekend?</p> <p>24 A. No.</p> <p>25 Q. Okay. So you must have had</p>
Page 623	Page 625
<p>1 that Dr. Gunner was then initiating an</p> <p>2 investigation regarding this matter?</p> <p>3 A. He had some questions for</p> <p>4 me.</p> <p>5 Q. Okay. But all you knew was</p> <p>6 what you were told on the 19th of</p> <p>7 March, right?</p> <p>8 A. From -- all I knew --</p> <p>9 Q. Whoever it is that came in</p> <p>10 to talk to you?</p> <p>11 A. Yes.</p> <p>12 Q. I heard a name of Beth</p> <p>13 Martinez.</p> <p>14 A. Yes. Yes.</p> <p>15 Q. And that was the limit of</p> <p>16 your knowledge about this?</p> <p>17 A. At that point, yes.</p> <p>18 Q. Okay. All right.</p> <p>19 A. Prior to his phone call.</p> <p>20 Q. Okay. Were you involved at</p> <p>21 all in the decision to relieve Mrs.</p> <p>22 Smith of her duties on March 29th?</p> <p>23 A. I was present, I believe.</p> <p>24 Q. I understand.</p> <p>25 A. The date --</p>	<p>1 a conversation with him on Friday then</p> <p>2 about this?</p> <p>3 A. It was the same conversation.</p> <p>4 Q. Okay. Did he tell you he</p> <p>5 was going to relieve Mrs. Smith of her</p> <p>6 duties on Monday, the 29th?</p> <p>7 A. We -- I don't recall the</p> <p>8 exact conversation. It might have been</p> <p>9 discussed what their -- with the</p> <p>10 process.</p> <p>11 Q. Okay. So you get to school</p> <p>12 on Monday, the 29th of March. And</p> <p>13 you're told to have Mrs. Smith come down</p> <p>14 to the office by Dr. Gunner?</p> <p>15 A. Yes.</p> <p>16 Q. Did you know at that point</p> <p>17 that she was going to be relieved of</p> <p>18 her duties?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Were you present when</p> <p>21 she came down to the office?</p> <p>22 A. Yes.</p> <p>23 Q. And as I understand it, she</p> <p>24 was given the letter by Dr. Gunner that</p> <p>25 basically said, turn in your keys, give</p>



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<p>1 us your laptop and go home?</p> <p>2 A. There was some discussion</p> <p>3 about her doing grades I think at that</p> <p>4 particular time, yes --</p> <p>5 Q. But no --</p> <p>6 A. -- basically.</p> <p>7 Q. No questions of her about</p> <p>8 what the -- what alleged -- what was</p> <p>9 alleged to have occurred on the March --</p> <p>10 on March 19th?</p> <p>11 A. I can't recall the exact</p> <p>12 conversation. I don't want to</p> <p>13 speculate.</p> <p>14 Q. Okay. That's fair. And she</p> <p>15 did -- she gave you -- did she give you</p> <p>16 the laptop or did she give it to Dr.</p> <p>17 Gunner?</p> <p>18 A. I believe that she was</p> <p>19 allowed some time to work with the</p> <p>20 laptop, because I'm pretty sure there</p> <p>21 was something about grades. There was a</p> <p>22 request for lesson plans, et cetera, and</p> <p>23 keys. She gave me the keys and the</p> <p>24 laptop before she left that day.</p> <p>25 Q. Was the laptop examined to</p>	<p>1 Q. There's no evidence</p> <p>2 whatsoever of any allegations or</p> <p>3 suggestions that Mrs. Smith was sleeping</p> <p>4 or dozing off in the other two social</p> <p>5 studies classes that she taught?</p> <p>6 A. We did not call anybody down</p> <p>7 to ask.</p> <p>8 Q. Nobody asked to find out if</p> <p>9 Mrs. Smith was, quote, unquote, teaching</p> <p>10 pornography or discussing inappropriate</p> <p>11 matters in those two classes?</p> <p>12 A. I did not.</p> <p>13 Q. Do you know if anybody did?</p> <p>14 A. I don't. It's not for me to</p> <p>15 say.</p> <p>16 Q. But it is fair to say that</p> <p>17 none of the students in either of those</p> <p>18 two social studies classes were ever</p> <p>19 interviewed by you?</p> <p>20 A. Correct.</p> <p>21 Q. And you're not aware of them</p> <p>22 being interviewed by anybody else?</p> <p>23 A. I'm not aware.</p> <p>24 Q. And then she taught other</p> <p>25 classes, as well. And I assume that</p>
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<p>1 be sure there wasn't any pornography on</p> <p>2 the laptop?</p> <p>3 A. I didn't examine it.</p> <p>4 Q. Do you know if it ever was,</p> <p>5 did anybody ever do a forensic</p> <p>6 evaluation of the laptop to be sure she</p> <p>7 wasn't maintaining pornography on the</p> <p>8 laptop?</p> <p>9 A. That would not be for me to</p> <p>10 do that.</p> <p>11 Q. You never heard that that</p> <p>12 occurred?</p> <p>13 A. I never heard that.</p> <p>14 Q. Okay. And after Mrs. Smith</p> <p>15 was sent home, that's when you started</p> <p>16 bringing down the students from her</p> <p>17 class --</p> <p>18 A. Yes.</p> <p>19 Q. -- is that correct?</p> <p>20 As I understand it, at no time</p> <p>21 during this investigation were any of</p> <p>22 Mrs. Smith's students in the other two</p> <p>23 social studies classes that she taught,</p> <p>24 they've never been interviewed, correct?</p> <p>25 A. That's correct, sir.</p>	<p>1 the other classes that she taught,</p> <p>2 nobody interviewed those students to see</p> <p>3 if she was discussing pornography in</p> <p>4 class or had mentioned Playboy or</p> <p>5 Playgirl in class?</p> <p>6 A. I did not.</p> <p>7 Q. Okay. Are you aware of</p> <p>8 anybody that did?</p> <p>9 A. I'm not aware.</p> <p>10 Q. When you bring these -- when</p> <p>11 you brought these students down on the</p> <p>12 morning of March 29th, as I understand</p> <p>13 it, they came down in groups of three</p> <p>14 or four, is that right?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Okay. Who did the talking</p> <p>17 when they came in the room, was that</p> <p>18 you or Dr. Gunner?</p> <p>19 A. Dr. Gunner for the most</p> <p>20 part, but I would occasionally say</p> <p>21 something. But it was --</p> <p>22 Q. Okay. Were they told, look,</p> <p>23 we're investigating Mrs. Smith, she's</p> <p>24 done something wrong and we need to know</p> <p>25 what you know about that?</p>



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<p>1 A. No.</p> <p>2 Q. Okay. Well, tell me exactly</p> <p>3 what -- from your recollection exactly</p> <p>4 what these students were told?</p> <p>5 A. Thank you for saying that,</p> <p>6 my recollection.</p> <p>7 Q. That's fair enough.</p> <p>8 A. But I don't know exactly</p> <p>9 what was said.</p> <p>10 Q. I understand.</p> <p>11 A. The first thing was to tell</p> <p>12 the students that you're not in trouble.</p> <p>13 Q. Of course.</p> <p>14 A. Okay. Because whenever they</p> <p>15 get called to the principal's office,</p> <p>16 that's their immediate thought.</p> <p>17 Q. Let me stop you there. This</p> <p>18 is a big deal for -- well, it's a big</p> <p>19 deal for any high school kid, let alone</p> <p>20 a freshman, to be called, number 1, to</p> <p>21 the principal's office, and then find</p> <p>22 the superintendent sitting there as,</p> <p>23 well, right? It's a fair assumption?</p> <p>24 A. Speculating on what a big</p> <p>25 deal is, but coming down to the</p>	<p>1 that day.</p> <p>2 Q. Was that the phrase he used,</p> <p>3 it was his job to evaluate teachers?</p> <p>4 A. No.</p> <p>5 Q. All right. Okay.</p> <p>6 A. It's --</p> <p>7 Q. I'm just asking.</p> <p>8 A. -- my job.</p> <p>9 Q. I didn't mean you versus</p> <p>10 him, but did he mention the phrase</p> <p>11 evaluate teachers?</p> <p>12 A. No.</p> <p>13 Q. Okay.</p> <p>14 A. In terms of the overall</p> <p>15 district.</p> <p>16 Q. Okay. Were the students</p> <p>17 told that these -- writing these</p> <p>18 statements out was voluntary or not?</p> <p>19 A. If I could just go back to</p> <p>20 the next question or previous question,</p> <p>21 sir. To investigate, it would have</p> <p>22 been, not to evaluate.</p> <p>23 Q. Fair enough. All right.</p> <p>24 That's fine.</p> <p>25 Were the students told that</p>
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<p>1 principal's office is not the normal</p> <p>2 course of the day, yes.</p> <p>3 Q. I'm old, but I recall being</p> <p>4 called down before, and it's not</p> <p>5 particularly pleasant, and it's somewhat</p> <p>6 anxiety producing.</p> <p>7 A. Well, not always to my</p> <p>8 office.</p> <p>9 Q. All right. Fair enough.</p> <p>10 A. Okay. And I try not to</p> <p>11 operate my school that way, so that it's</p> <p>12 an unpleasant ordeal, but.</p> <p>13 Q. Fair enough.</p> <p>14 A. But my role in this is to</p> <p>15 put my students at ease.</p> <p>16 Q. Okay.</p> <p>17 A. And Dr. Gunner I think also</p> <p>18 did that in speaking to the intent of</p> <p>19 what the process was going to be to</p> <p>20 them. That his job is to evaluate</p> <p>21 teachers and principals, and -- excuse</p> <p>22 me. And when he gets an allegation, he</p> <p>23 has to investigate that.</p> <p>24 And that was going to be the</p> <p>25 role that they -- we were going to take</p>	<p>1 writing out these statements was</p> <p>2 voluntary?</p> <p>3 A. I do believe we told them</p> <p>4 that we would like them to. We didn't</p> <p>5 ever say that it was mandatory. We</p> <p>6 would like them.</p> <p>7 Q. And when a principal and the</p> <p>8 superintendent of schools tells a high</p> <p>9 school freshman that you'd like them to</p> <p>10 write a statement out, typically they're</p> <p>11 going to write a statement out, right,</p> <p>12 in your experience?</p> <p>13 A. There were some, one, to my</p> <p>14 recollection, I don't know who, that</p> <p>15 said I prefer not to, and we said,</p> <p>16 that's okay.</p> <p>17 Q. Who was that?</p> <p>18 A. I don't recall. I just</p> <p>19 recall there was one instance.</p> <p>20 Q. So --</p> <p>21 A. They did end up writing</p> <p>22 something out after they left.</p> <p>23 Q. Okay. You just don't know</p> <p>24 the name of the student?</p> <p>25 A. No.</p>



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<p>1 Q. Was that turned in?</p> <p>2 A. I don't recall.</p> <p>3 Q. Okay. Was there any</p> <p>4 consideration given to calling the</p> <p>5 parents of any students informing them</p> <p>6 that their child was being asked to</p> <p>7 write a statement out or participate in</p> <p>8 an investigation about a school teacher?</p> <p>9 A. Not at this time.</p> <p>10 Q. Well, that's the only time</p> <p>11 that they were interviewed, was it not?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So the answer is no?</p> <p>14 A. Yes.</p> <p>15 Q. The parents weren't called or</p> <p>16 the parents were not informed, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. I'm sorry.</p> <p>20 Q. That's all right.</p> <p>21 A. I nodded my head.</p> <p>22 Q. That's all right. Did you</p> <p>23 tell the students what day it is --</p> <p>24 what day it was that this alleged</p> <p>25 discussion or discussion occurred about</p>	<p>1 A. No, I wouldn't characterize</p> <p>2 it as that.</p> <p>3 Q. Okay. If you can go back</p> <p>4 and look at Board Exhibit 3. It's that</p> <p>5 teacher's handbook.</p> <p>6 A. Number 3, sir?</p> <p>7 Q. Yes, please. The back of</p> <p>8 that page is what you were talking about</p> <p>9 earlier during the testimony regarding</p> <p>10 study hall. Just let me know when</p> <p>11 you've found it.</p> <p>12 A. Okay.</p> <p>13 Q. You have it?</p> <p>14 A. Yes.</p> <p>15 Q. Am I correct in that it's in</p> <p>16 bold type, it says, all electronic</p> <p>17 devices are unacceptable. Do you see</p> <p>18 that?</p> <p>19 A. Yes, sir.</p> <p>20 Q. That does not include</p> <p>21 computers, right?</p> <p>22 A. No.</p> <p>23 Q. Kids were --</p> <p>24 A. Yes, that's correct, it does</p> <p>25 not include computers when we're one to</p>
Page 635	Page 637
<p>1 in which pornography was mentioned in</p> <p>2 Mrs. Smith's class?</p> <p>3 A. I'm trying to think, sir.</p> <p>4 Q. Okay.</p> <p>5 A. I think we might have</p> <p>6 mentioned the 19th or the previous</p> <p>7 Friday.</p> <p>8 Q. Okay. That was sort of my</p> <p>9 question. Do you recall saying it was</p> <p>10 the previous Friday, which would have</p> <p>11 been the 26th?</p> <p>12 A. Previous -- no.</p> <p>13 Q. All right.</p> <p>14 A. The 19th.</p> <p>15 Q. Okay.</p> <p>16 A. Sorry.</p> <p>17 Q. That's fine. I assume one</p> <p>18 of the impressions that you took away</p> <p>19 from this meeting with the students was</p> <p>20 that these kids were laughing and</p> <p>21 giggling about this when Mrs. Smith was</p> <p>22 discussing or mentioning Playboy and</p> <p>23 Playgirl?</p> <p>24 A. Some, but not all.</p> <p>25 Q. The vast majority?</p>	<p>1 one.</p> <p>2 Q. Okay. So kids were all</p> <p>3 issued their own individual computer.</p> <p>4 Was it this past school year or the</p> <p>5 year before?</p> <p>6 A. The 2009/2010 school year.</p> <p>7 Q. Okay. Every high school</p> <p>8 student at Perkins High School was</p> <p>9 issued his or her own personal computer?</p> <p>10 A. Yes.</p> <p>11 Q. Through the school district?</p> <p>12 A. Yes.</p> <p>13 Q. And when it says, electronic</p> <p>14 devices are unacceptable in study halls,</p> <p>15 that was not meant to mean that the</p> <p>16 kids could not have their computers in</p> <p>17 study hall?</p> <p>18 A. Students could have their</p> <p>19 computer in study hall.</p> <p>20 Q. Okay. And use the computer?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. If you could go two</p> <p>23 pages back.</p> <p>24 A. In the same handbook?</p> <p>25 Q. Yes. Yes, sir?</p>



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<p>1 A. Back as in toward the back?</p> <p>2 Q. Yes, toward the back.</p> <p>3 Telephone usage?</p> <p>4 A. Yes.</p> <p>5 Q. One of Mrs. Smith's</p> <p>6 responsibilities when she had to move</p> <p>7 from the second floor of room --</p> <p>8 A. 702.</p> <p>9 Q. -- 702 at the end of 4th</p> <p>10 period and make her way down to room</p> <p>11 605 for 5th period, one of her</p> <p>12 responsibilities before she left that</p> <p>13 room after the bell rang, she had to be</p> <p>14 sure that all the students were out of</p> <p>15 the room, and then she's required to</p> <p>16 lock the door, correct?</p> <p>17 A. That would be the appropriate</p> <p>18 behavior, yes.</p> <p>19 Q. And that's consistent with,</p> <p>20 although it's under telephone use, it's</p> <p>21 consistent with if you're not in your</p> <p>22 room, lock the door?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Are you aware of any</p> <p>25 other teachers, other than Carol Smith,</p>	<p>1 right.</p> <p>2 I'm just trying to understand</p> <p>3 what their responsibility was versus the</p> <p>4 classroom teacher's responsibility.</p> <p>5 A. Let me think. Spanish,</p> <p>6 social studies.</p> <p>7 I had Mrs. Fry who moved, sir,</p> <p>8 on your map.</p> <p>9 Q. Yes.</p> <p>10 A. She only moved in the 600</p> <p>11 across the hallway.</p> <p>12 Q. Okay.</p> <p>13 A. But she did move from room</p> <p>14 to room.</p> <p>15 Q. Like of 601 to 602?</p> <p>16 A. No, 604 to 603.</p> <p>17 Q. Okay. Right across the</p> <p>18 hall?</p> <p>19 A. Yeah, because she had sewing</p> <p>20 in one room and she was --</p> <p>21 Q. And I think Mrs. Salzgeber</p> <p>22 had to move from --</p> <p>23 A. She -- gym.</p> <p>24 Q. Gym?</p> <p>25 A. PE to, yeah, the gym, to</p>
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<p>1 in the 2009/2010 school year that had to</p> <p>2 move from classroom to classroom between</p> <p>3 bells?</p> <p>4 A. Let me stop and think for a</p> <p>5 minute.</p> <p>6 Q. Of course.</p> <p>7 A. We have, yes, our inclusion,</p> <p>8 our special needs teachers.</p> <p>9 Q. And that would include Ms.</p> <p>10 Malott that was in Mrs. --</p> <p>11 A. Ms. Malott, Mrs. Belavich.</p> <p>12 Q. Okay.</p> <p>13 A. Do you want me to name them</p> <p>14 all?</p> <p>15 Q. No. But as I understand it,</p> <p>16 those teachers were sort of in and out</p> <p>17 of the room during class, and they had</p> <p>18 no responsibilities, they're not the</p> <p>19 primary classroom teacher, so when the</p> <p>20 bell rang, they're free to go, generally</p> <p>21 speaking?</p> <p>22 A. Generally speaking. But you</p> <p>23 asked me there if there were any other</p> <p>24 teachers --</p> <p>25 Q. I did ask you that. You're</p>	<p>1 801.</p> <p>2 Q. 801, that's right across the</p> <p>3 hall, too?</p> <p>4 A. Well, it's up a ramp and</p> <p>5 around the corner.</p> <p>6 Q. Fair enough. Okay. You're</p> <p>7 not aware of any other teachers in the</p> <p>8 2009/2010 school year that had to walk</p> <p>9 the distance that Mrs. Smith did from</p> <p>10 702 to 605 --</p> <p>11 A. Not this school year.</p> <p>12 Q. -- between bells?</p> <p>13 A. In -- not this school this</p> <p>14 year.</p> <p>15 Q. Okay.</p> <p>16 A. In previous years, yes, but</p> <p>17 not this school year.</p> <p>18 Q. Okay. Now, you had</p> <p>19 testified this morning, you had some</p> <p>20 knowledge of Mrs. Smith's eye surgery on</p> <p>21 her right eye, and she had discussed</p> <p>22 with you the limitations of the right</p> <p>23 eye?</p> <p>24 A. I've never looked at her</p> <p>25 records or had an in depth conversation</p>



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<p>1 about any of her medical history. But,</p> <p>2 yes, we had had a conversation that she</p> <p>3 was -- she wore an eye patch at one</p> <p>4 time.</p> <p>5 Q. Okay. And that was</p> <p>6 following some surgery, as you</p> <p>7 understand it?</p> <p>8 A. As I understand it.</p> <p>9 Q. And she told you back in the</p> <p>10 2008/2009 school year that there were</p> <p>11 times when she would close both eyes,</p> <p>12 because the left eye would get tired,</p> <p>13 the right eye she couldn't see much of</p> <p>14 anything out of?</p> <p>15 A. This is what she told me.</p> <p>16 Q. Okay. Do you have any</p> <p>17 reason to disbelieve that?</p> <p>18 A. The conversation was in</p> <p>19 regards to her sleeping in class.</p> <p>20 Q. Okay.</p> <p>21 A. And, you know, I've not seen</p> <p>22 her myself. But again I, you know, had</p> <p>23 heard various rumblings from other</p> <p>24 people. So it was a concern, which was</p> <p>25 why we took the time to address it.</p>	<p>1 don't know when it was, within the</p> <p>2 recent, you know, past few years where</p> <p>3 Mr. Obergefell showed a movie in class</p> <p>4 of a hostage beheading? Do you recall</p> <p>5 that, the actual film of someone --</p> <p>6 A. A video.</p> <p>7 Q. -- beheading an individual?</p> <p>8 A. Yes.</p> <p>9 Q. Do you recall that?</p> <p>10 A. Yes.</p> <p>11 Q. Was he sent home?</p> <p>12 A. He came down and told me.</p> <p>13 Q. Okay.</p> <p>14 A. And I took that to the</p> <p>15 superintendent.</p> <p>16 Q. My question --</p> <p>17 A. I don't recall whether he</p> <p>18 was sent home. That was a number of</p> <p>19 years ago.</p> <p>20 Q. That certainly was not</p> <p>21 appropriate for him to do that, correct?</p> <p>22 A. There was disciplinary action</p> <p>23 that followed.</p> <p>24 Q. Okay. He wasn't terminated?</p> <p>25 A. No, he was not.</p>
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<p>1 But on the other hand, since she</p> <p>2 was wearing a patch, I knew she had</p> <p>3 surgery. It's hard for me to tell</p> <p>4 whether somebody's resting when their</p> <p>5 eyes are closed or whether they're</p> <p>6 sleeping.</p> <p>7 Q. She did offer an explanation</p> <p>8 to you what was going on --</p> <p>9 A. That was the explanation she</p> <p>10 gave me.</p> <p>11 Q. -- relating to her eye?</p> <p>12 Okay.</p> <p>13 THE NOTARY: One at a time,</p> <p>14 please.</p> <p>15 Q. You understand that Mrs.</p> <p>16 Smith was relieved of her duties on</p> <p>17 March 29th of this -- of this year</p> <p>18 because of allegations of teaching</p> <p>19 inappropriate material in her class? I</p> <p>20 mean, that was the justification for</p> <p>21 sending her home, correct?</p> <p>22 A. I believe that was part of</p> <p>23 it. I'd have to refer exactly to</p> <p>24 the --</p> <p>25 Q. Was there an incident, and I</p>	<p>1 Q. You don't even know if he</p> <p>2 was relieved of his duties at all?</p> <p>3 A. I don't recall.</p> <p>4 Q. Okay. It certainly was not</p> <p>5 appropriate for him to show that to a</p> <p>6 class?</p> <p>7 A. That's what we determined,</p> <p>8 yes.</p> <p>9 Q. And as I understand it, it</p> <p>10 was the actual beheading of a human</p> <p>11 being by someone?</p> <p>12 A. I never saw the video.</p> <p>13 Q. Okay. If you could look at</p> <p>14 exhibits -- look at Exhibit 34, Mr.</p> <p>15 Gasteier. It's a letter you sent to</p> <p>16 Mrs. Smith on June 15th, 2009.</p> <p>17 A. Yes, sir.</p> <p>18 Q. This was prior to her</p> <p>19 receiving a 10 day suspension from</p> <p>20 school. And she had been accused or</p> <p>21 alleged that she had been late to attend</p> <p>22 Mr. Obergefell's class, and that she was</p> <p>23 perhaps going to be disciplined because</p> <p>24 she had not gone to Mr. McVeigh's study</p> <p>25 hall class as part of her observation of</p>



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<p>1 his social studies teaching. 2 And as I understand it from 3 looking at your letter, she did explain 4 to you, and I think you testified this 5 morning, that with regard to being late 6 to Mr. Obergefell's class, she was 7 stopped in the hallway by a student who 8 had a question for her regarding a test. 9 Do you recall that? 10 A. I recall the testimony, and 11 I recall her stating that. 12 Q. Okay. 13 A. I never asked to know who 14 the student was, but that's what she had 15 told me. And I -- 16 Q. I thought I understood your 17 testimony this morning that those things 18 happen. And I think the phrase you 19 used was when students come up to 20 teachers in the hallway, you don't want 21 the teachers to sort of shun them away? 22 A. That's correct. 23 Q. So it was not inappropriate 24 for Mrs. Smith to stop and talk to the 25 student and try and answer his or her</p>	<p>1 saying to her -- 2 Q. All right. 3 A. -- you need to stay for the 4 study hall period. 5 Q. Fair enough. During the 6 2009/2010 school year did Mrs. Smith 7 ever ask you if she could stay up in 8 room 702 to teach the social studies 9 class? 10 A. Not that I recall. 11 Q. Okay. Would she have been 12 permitted to do that or not? 13 A. We had asked her and 14 instructed her to teach in room 605, 15 because that's where all the materials 16 were for the class, the SMART board and 17 the projection unit and the other 18 materials. And the teacher was there, 19 as well. 20 Q. I'm just asking -- 21 A. And the room was available. 22 Q. I'm just asking, was room 23 702 available during 5th period, as 24 well? 25 A. Yes, sir.</p>
Page 647	Page 649
<p>1 question that morning? 2 A. I believe I testified that 3 way. I still agree. 4 Q. Okay. 5 A. I did also testify that we 6 expected her to be on time. 7 Q. I understand. But there's 8 also times when that just can't occur -- 9 A. It happens. 10 Q. -- because of a student's 11 needs, and you don't want to offend the 12 student? 13 A. It happens. 14 Q. Okay. And you agreed, 15 looking at the bottom of this letter, 16 you also agreed that Mrs. Smith was not 17 specifically instructed to remain in Mr. 18 McVeigh's 5th period study hall? 19 A. Not -- not specifically 20 instruction. 21 I thought the implication is that 22 she would stay to remain to talk to the 23 teachers who were instructing the class. 24 Q. Okay. 25 A. But no, I never recall</p>	<p>1 Q. I'm just asking what -- was 2 there any reason why she couldn't have 3 just stayed in 702 to teach social 4 studies? 5 A. The reasons that I just 6 gave, in terms of the materials were 7 available in 605, the electronic 8 equipment for her to use. 9 Q. Okay. And that equipment 10 was not available in 702? 11 A. No. 12 Q. Okay. Looking at Board 13 Exhibit 51, Mr. Gasteler, the last page 14 of that exhibit. 15 THE ARBITRATOR: What was the -- 16 MR. SHOUB: 51. 17 Q. Do you see that handwriting 18 on the left-hand outside the margin at 19 the bottom of the page on the left-hand 20 side? 21 A. You're looking at -- you're 22 looking at 51, the last page? 23 Q. The last page of 51. 24 A. And it's got two underlines 25 underneath?</p>



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<p>1 Q. Yes. What was that word?</p> <p>2 A. I have no idea.</p> <p>3 Q. That's not your handwriting?</p> <p>4 A. No.</p> <p>5 Q. Oh, okay. Do you know whose</p> <p>6 handwriting that is?</p> <p>7 A. Not offhand, no.</p> <p>8 Q. Okay. So you don't know</p> <p>9 whose handwriting pages 2, 3 and 4 are</p> <p>10 of Exhibit 51?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 A. I -- if I look at it and I</p> <p>14 read it, I can give you an idea,</p> <p>15 assume, but not from the handwriting</p> <p>16 itself.</p> <p>17 Q. No, that's fine. That's</p> <p>18 fine. I'm just asking if you know. We</p> <p>19 don't need to do that.</p> <p>20 Do you have any -- were you</p> <p>21 involved at all in the decision to</p> <p>22 suspend Mrs. Smith pending a termination</p> <p>23 hearing that we're about today?</p> <p>24 A. Only through the conversation</p> <p>25 that I've had with Mr. Gunner when I</p>	<p>1 part of the conversation we had in</p> <p>2 California. Again I'm standing on the</p> <p>3 steps walking with my phone going up,</p> <p>4 not taking notes during the</p> <p>5 conversation.</p> <p>6 Q. I understand. Did you have</p> <p>7 any other discussions after you got back</p> <p>8 from California, and after you</p> <p>9 interviewed or participated in these</p> <p>10 interviews with the students, did you</p> <p>11 have any further discussion with Dr.</p> <p>12 Gunner about Mrs. Smith being suspended</p> <p>13 pending termination?</p> <p>14 A. I'm going to ask you, after</p> <p>15 I got back from California? Excuse me.</p> <p>16 After the --</p> <p>17 Q. I'm sorry. Go ahead.</p> <p>18 A. After I talked to the</p> <p>19 students?</p> <p>20 Q. Yes. Let's just use March</p> <p>21 29th, 2010 as the date.</p> <p>22 A. That Monday?</p> <p>23 Q. Yeah, from that Monday on,</p> <p>24 did you have any discussions with Dr.</p> <p>25 Gunner about suspending Mrs. Smith</p>
Page 651	Page 653
<p>1 was in California, in terms of what</p> <p>2 might be the possible outcomes of an</p> <p>3 investigation.</p> <p>4 Q. Well, tell me about that</p> <p>5 conversation. What was said about</p> <p>6 suspending Mrs. Smith pending</p> <p>7 termination?</p> <p>8 A. Well, I don't know -- let me</p> <p>9 stop and think. If there's any</p> <p>10 investigation, there are certain</p> <p>11 procedures to go through as per the</p> <p>12 collective bargaining agreement.</p> <p>13 Q. Okay.</p> <p>14 A. And depending upon the</p> <p>15 allegations or investigation as it goes</p> <p>16 forward, that there might be certain</p> <p>17 steps taken under the progressive</p> <p>18 discipline area.</p> <p>19 Q. I guess my question is, did</p> <p>20 you have a specific discussion with Dr.</p> <p>21 Gunner prior to March 29th about Mrs.</p> <p>22 Smith being suspended pending</p> <p>23 termination?</p> <p>24 A. Could have had it during</p> <p>25 that conversation, it could have been</p>	<p>1 pending a termination hearing?</p> <p>2 A. We discussed the time that I</p> <p>3 had talked to the students without Dr.</p> <p>4 Gunner and what my findings had been,</p> <p>5 and finding them fairly consistent with</p> <p>6 all the other student interviews that</p> <p>7 had been conducted while he and I were</p> <p>8 there and what the possible next steps</p> <p>9 would be in regards to Mrs. Smith.</p> <p>10 Q. Right. And I'm -- you</p> <p>11 answered a question, but not the</p> <p>12 question I asked you. My question to</p> <p>13 you was, after -- on March 29th, from</p> <p>14 that date forward, did you have any</p> <p>15 discussions with Dr. Gunner specifically</p> <p>16 about Mrs. Smith being suspended pending</p> <p>17 termination?</p> <p>18 A. More than I gave you before,</p> <p>19 I don't recall.</p> <p>20 Q. Okay. Did you have any</p> <p>21 discussions with any school board</p> <p>22 members about any of these matters</p> <p>23 relating to the March 19th allegation</p> <p>24 and any allegations that arose out of</p> <p>25 the investigation?</p>



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<p>1 A. Not to my knowledge. 2 Q. Did Dr. -- 3 A. It wouldn't -- go ahead. 4 Q. Well, it sounds like you 5 have an answer. Do you want to give me 6 some more answer? 7 A. No, I just -- I don't recall 8 ever having a conversation with a school 9 board member in regards to a 10 disciplinary hearing with a teacher. 11 Q. Okay. Well, specifically 12 Carol Smith. 13 A. Yeah, well, any. 14 Q. All right. Were you asked 15 to make a recommendation about whether 16 or not Mrs. Smith should be suspended 17 pending termination? 18 A. I don't believe that that's 19 my role in the collective bargaining 20 agreement and I wouldn't want to 21 supersede that. 22 Q. I didn't ask that. I'm just 23 asking if you were. Were you asked to 24 give a recommendation? 25 A. I don't know why I would be.</p>	<p>1 follow the progressive discipline. 2 Q. I'm just asking, regardless 3 of whether it's the proper role or not 4 proper role, whatever the collective 5 bargaining agreement says, I'm not 6 asking that question. 7 I'm just asking, did you ever say 8 to Dr. Gunner, I think Carol should be 9 suspended pending termination or I don't 10 think that she should be suspended 11 pending termination? 12 A. I might have to answer I 13 don't recall, sir. 14 Q. Okay. There's a number of 15 typewritten notes in the board's 16 exhibits, I think starting with -- if we 17 look at Board Exhibit 57, Mr. Gasteler. 18 And, you know, sort of on back through 19 there, into the 60s, are these -- these 20 aren't your typewritten notes, right? 21 A. You just want me to glance 22 through all of them? 23 Q. If you need to glance 24 through them all, that's fine. 25 A. They go from where to where,</p>
Page 655	Page 657
<p>1 Q. Simple question. 2 A. No. 3 Q. Were you asked? 4 A. Not that I recall. 5 But if you'll allow me, the 6 conversation that occurs between the 7 superintendent and the principal, at 8 least in our situation, is a give and 9 take over what has transpired. Okay. 10 So we may have discussed it. 11 Q. That's what I'm getting at 12 that. Yeah. That's what I'm asking. 13 A. But I don't recall any 14 particular time -- 15 Q. Okay. 16 A. -- the superintendent asking 17 me, Mr. Gasteler, would you recommend 18 that she be terminated. 19 Q. Did you -- do you recall 20 saying or expressing an opinion about 21 whether or not Mrs. Smith should be 22 suspended pending termination? 23 A. Again that's not for me to 24 say. But I would say that these are 25 serious allegations, and we need to</p>	<p>1 because I'm getting the understanding 2 here -- 3 Q. 57 all the way back to -- 4 A. And you're -- 5 Q. Hang on a second. Let me 6 make sure I have the question right. 7 And through 80, at the beginning 8 of each of those exhibits there are 9 typewritten notes. My question to you 10 is, once you've had a chance to look at 11 them, did you type any of those? 12 A. If I can answer without 13 looking at each one? 14 Q. No. Please, look at each 15 one then, if you need to. 16 A. Okay. 17 No, I did not type any of these. 18 Q. I'm sorry. The answer is 19 no? 20 A. Correct. 21 Q. Okay. Do you know, was Mrs. 22 Smith -- in the 2009/2010 school year, 23 there was a special ed. teacher that 24 would have been in her 5th period social 25 studies class along with the students,</p>



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<p>1 and that was Mrs. Malott?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. Was that -- was she</p> <p>4 in that class every day, was that your</p> <p>5 understanding?</p> <p>6 A. I can't specify every day,</p> <p>7 but that would be her normal assignment.</p> <p>8 Q. Okay.</p> <p>9 A. Because as a rule there were</p> <p>10 a number of other students on IEPs --</p> <p>11 Q. Right.</p> <p>12 A. -- Individual education</p> <p>13 plans.</p> <p>14 Q. Okay. So Mrs. Malott at</p> <p>15 least on a -- can we agree on a fairly</p> <p>16 regular basis or consistent basis would</p> <p>17 have been in the 5th period social</p> <p>18 studies class?</p> <p>19 A. Yes.</p> <p>20 Q. And she never came to you</p> <p>21 during the 2009/2010 school year and</p> <p>22 said, Carol Smith is sleeping in class?</p> <p>23 A. Not that I recall. She</p> <p>24 might have observed it, but I don't</p> <p>25 know.</p>	<p>1 A. There is a nurse there who</p> <p>2 is assigned to an individual student.</p> <p>3 Q. Okay. For that full -- for</p> <p>4 that full four hours?</p> <p>5 A. No, sir.</p> <p>6 Can I?</p> <p>7 Q. Yes, please.</p> <p>8 A. We had -- we share a nurse</p> <p>9 from the county, and that nurse</p> <p>10 circulates throughout the district. At</p> <p>11 the beginning of that year that nurse</p> <p>12 was there for four hours one day a</p> <p>13 week. But this other nurse was there</p> <p>14 for a particular student who needs</p> <p>15 services, and she was there most of the</p> <p>16 day every day.</p> <p>17 Q. For the 2009/2010 school</p> <p>18 year, did you ask either any school</p> <p>19 nurse or school nurse that was there for</p> <p>20 the four hours a day at the beginning</p> <p>21 of the school year to have any --</p> <p>22 conduct any informational sessions with</p> <p>23 the students that Mrs. Smith had</p> <p>24 regarding diabetes and insulin control</p> <p>25 and things like that?</p>
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<p>1 Q. She didn't tell you?</p> <p>2 A. I don't recall her saying</p> <p>3 that.</p> <p>4 Q. All right. And the person</p> <p>5 that Mrs. Smith bumped out of that job,</p> <p>6 Mrs. Mazza, was a pretty good friend of</p> <p>7 Ms. Malott's, right, or do you know</p> <p>8 that?</p> <p>9 A. They teach in the same</p> <p>10 hallway, but other than that, I don't</p> <p>11 know their --</p> <p>12 Q. Was Mrs. Mazza a pretty</p> <p>13 popular teacher? Well, did Bores and</p> <p>14 McVeigh like her?</p> <p>15 A. Again those are questions</p> <p>16 that I don't feel --</p> <p>17 Q. That's fine.</p> <p>18 A. -- I'm capable to answer.</p> <p>19 Q. Fair enough. That's fine.</p> <p>20 For the 2009/2010 school year, Mr.</p> <p>21 Gasteler, did you ask -- is there a</p> <p>22 school nurse at the high school?</p> <p>23 A. At the beginning of the year</p> <p>24 we had a nurse for four hours a week.</p> <p>25 Q. Okay.</p>	<p>1 A. No, sir.</p> <p>2 Q. Okay. And prior to this</p> <p>3 allegation of what occurred on March</p> <p>4 19th of 2010, there's been no prior</p> <p>5 allegations whatsoever that Mrs. Smith</p> <p>6 has either ever taught an inappropriate</p> <p>7 subject in any of her classes or had</p> <p>8 discussed pornography in any of her</p> <p>9 classes, other than this one incident?</p> <p>10 A. I would say the pornography.</p> <p>11 But as far as -- I would be speculating</p> <p>12 to say at any other time prior to this</p> <p>13 time over her career.</p> <p>14 Q. None that you're aware of?</p> <p>15 A. Well, I've had issues with</p> <p>16 parents. They've had concerns.</p> <p>17 Q. About what she teaches?</p> <p>18 A. No.</p> <p>19 Q. Or the demeanor?</p> <p>20 A. The interaction with their</p> <p>21 children.</p> <p>22 Q. Demeanor, as opposed to</p> <p>23 substance?</p> <p>24 A. Yes.</p> <p>25 Q. Yes. Okay.</p>



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ARBITRATION - VOLUME II

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<p>1 A. Do you mind if I get more 2 ice while you're looking? 3 Q. I'm sorry. 4 A. May I get more ice? 5 MR. WILLIAMS: Mr. Gasteier, do 6 you need a break? 7 THE WITNESS: No just more ice. 8 (Discussion off record.) 9 MR. SHOUB: Actually that's all 10 the questions I have, Mr. Gasteier. 11 Thank you. 12 THE WITNESS: Okay. 13 THE ARBITRATOR: Do you have any? 14 MR. WILLIAMS: A couple. 15 EXAMINATION OF CHRIS J. GASTEIER 16 BY-MR.WILLIAMS: 17 Q. Mr. Gasteier, there was a 18 question of you about Mr. Obergefell? 19 A. Obergefell. 20 Q. I am never going to be able 21 to say that name. Obergefell. And a 22 video that he had shown in his class 23 which allegedly depicts a beheading, I 24 think is what Mr. Shoub's question to 25 you addressed.</p>	<p>1 for coming to tell you this? 2 A. I think that he felt that it 3 wasn't something that was normal. And 4 it might be perceived, and that I might 5 get a phone call from parents or 6 students or someone. 7 Q. He was concerned he had made 8 a mistake? 9 A. Yes, sir. 10 Q. Okay. Due to his admission, 11 did you then have to interview all the 12 students in his classroom to find out 13 what had happened? 14 A. No. I took him at his word. 15 Q. Had he been previously 16 disciplined for showing inappropriate 17 movies? 18 A. No. 19 Q. Had he had any previous 20 discipline that you recall? 21 A. Not that I recall. 22 Q. And he had only taught in 23 your building up to that point? 24 A. Yes, sir. 25 Q. Okay. Did he tell you why</p>
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<p>1 Do you recall when that was, what 2 school year? 3 A. Not offhand, but I would say 4 that it would have been -- it was 5 during Mrs. -- I've to go by 6 superintendents. Okay. So it was 7 before Mr. Gunner. It was before Mr. 8 Rectenwald. It was the beginning of 9 Mrs. Buccieri tenure. It would have 10 been around 2004/2005, I would think. 11 Maybe a little earlier. I'm guessing. 12 I don't recall. 13 Q. Okay. And how was it that 14 you learned about this incident? 15 A. He came and told me. 16 Q. Okay. So he came to your 17 office and admitted to you? 18 A. He came to me in the hallway 19 while -- between classes at -- towards 20 the end of the day. 21 Q. And admitted to you that 22 this had happened? 23 A. He told me the sequence that 24 had happened, yes. 25 Q. Okay. What was his purpose</p>	<p>1 he had shown that video? 2 A. Yes. And, you know, this 3 has been a number of years, so I'm 4 going to recollect as best I can. 5 He taught current affairs class. 6 It was something about the Middle East, 7 as I recall. Some students said that 8 they had seen it and wanted to view it. 9 He gave the students an option whether 10 to stay or to leave. And then they 11 proceeded to show it to the best of my 12 recollection. 13 Q. Okay. 14 A. And I can't recall, I think 15 maybe one or two students left and went 16 to another classroom, but I can't be 17 sure. I know he told me he gave them 18 the option of that. 19 Q. So that as a result of that 20 incident, you imposed some sort of 21 discipline upon him? 22 A. I talked to the 23 superintendent, yes. And we determined 24 that there would be some -- according to 25 the collective bargaining agreement, we</p>



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<p>1 would follow the progressive discipline. 2 Q. Okay. So what did that mean 3 in that particular instance for him? 4 A. I don't recall. I'm sure it 5 was a letter of reprimand. I don't 6 know if there was -- I don't recall a 7 suspension, but there could have been. 8 I don't recall whether there was or not. 9 Q. Okay. Had you had any 10 complaints about him sleeping in class 11 prior to that? 12 A. No, sir. 13 Q. Or being tardy to class? 14 A. No, sir. 15 Q. Okay. And he hadn't been 16 suspended for three days prior to that? 17 A. No, sir. 18 Q. Or suspended for 10 days 19 prior to that? 20 A. No, sir. 21 Q. You testified regarding 22 teachers who moved from one room to 23 another room during the school day in 24 the 2009/2010 school year. Are there 25 teachers who move from classroom to</p>	<p>1 A. Mr. Schultz in 401. Mrs. 2 Andaraus -- 401 would be right below the 3 cafeteria. 4 Q. Okay. 5 A. Mrs. Andaraus would be 501. 6 Q. 501? 7 A. The lower left, the lower 8 left-hand corner. 9 Q. Okay. That's all the way on 10 the other side of the building? 11 A. Yes. Yes, sir. 12 Mr. McVeigh in 504. I'm trying 13 to think. 14 Mr. Crabtree was in the main gym, 15 actually where it looks like number 1 16 there to the right of the main gym, 17 that's an office area, that's where he 18 would be. 19 I'm trying to think who some of 20 the other ones were. Mr. Majoy in room 21 407. And I'm sure there were others, I 22 can't think of them right now. 23 But they were -- Mrs. Fry also 24 was in 604 -- no, she was not. She was 25 not lunchroom supervisor this year. We</p>
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<p>1 other assigned duties during the school 2 day, such as the lunchroom? 3 A. Yes, sir. 4 Q. Okay. 5 A. Excuse me. Yes, sir. 6 Q. And explain how that happens. 7 THE ARBITRATOR: Crunch your ice 8 first. 9 THE WITNESS: Thank you. That 10 almost came out on the table. I'm 11 sorry. Thank you. 12 A. If you look at -- can I -- 13 Q. Yeah. 14 A. -- refer to the -- 15 Q. Exhibit 101. 16 A. Yeah, the thing at the very 17 back, the map. 18 Q. Yes. 19 A. The cafeteria is in upper 20 right-hand corner. 21 Q. Yes. 22 A. And the -- I can give you 23 some examples of who our lunchroom 24 supervisors were. 25 Q. Okay.</p>	<p>1 asked her to come down for 15 minutes 2 occasionally, but not full-time. 3 Q. Let's talk, if we could, 4 what procedure there would be for a 5 teacher who had lunchroom duty. Would 6 they have to lock their classroom before 7 going down to lunchroom duty? 8 A. The expectation was and Mrs. 9 Andaraus -- her name is Hensley now. 10 She changed her name -- 501. She's an 11 art teacher. You have to have cleanup 12 duties. Everything should be cleaned 13 up. She has cleanup ahead of time. 14 Get the students out, lock the door and 15 go on down. 16 Q. Okay. And how much time 17 does a teacher have to go from the 18 classroom to the cafeteria, the same, 19 four minutes? 20 A. Same as, yeah. 21 Q. Okay. Because as I 22 understand it's a four minute period of 23 time? 24 A. It's a passing time of four 25 minutes, yes.</p>



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<p>1 Q. Okay. So these teachers, 2 say, in 501 for 504, for example, they 3 would have had the obligation to lock 4 their classroom doors, make sure -- make 5 sure there's no more students left in 6 the classroom, shut the lights off, lock 7 the door and then walk down to the 8 cafeteria in four minutes? 9 A. Yes. 10 Q. And given your familiarity 11 with the high school, would you say that 12 the distance from 501 or 504 to the 13 cafeteria is roughly the same, if not 14 greater, than the distance between room 15 702 and 605? 16 A. Yes. 17 Q. Did you have any complaints 18 regarding the teachers in 501 or 504 19 being late to the cafeteria on a regular 20 basis? 21 A. Occasionally, but not on a 22 regular basis. 23 Q. Okay. Not two, three times 24 a week? 25 A. No.</p>	<p>1 A. I'm trying to. Aside from 2 other special ed. teachers and, of 3 course, Mrs. Smith. 4 Our 801 teacher is a PE and 5 health teacher. We have teachers who 6 will occasionally go from the English 7 wing to the auditorium. But that's not 8 on a regular basis, that's on an as 9 needed basis. 10 Q. Where is the English wing? 11 A. The 200 hallway on the 12 right-hand side. 13 Q. Okay. 14 A. Our specials or our elective 15 classes are usually the only ones that 16 have to change. 17 Q. Okay. 18 A. Mrs. Andaraus was part-time 19 Spanish -- or half Spanish, half art 20 teacher. 21 Also our study hall teachers. 22 You asked me in previous years? 23 Q. Yes. 24 A. Our study hall teachers all 25 had to -- by way of explanation, this</p>
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<p>1 Q. Or once a week even? 2 A. No. 3 Q. You had also indicated in 4 prior years there had been teachers who 5 had room assignments which were 6 different rooms and were as far away as 7 the room assignments that Mrs. Smith 8 had? 9 A. Yes. 10 Q. Can you think of any 11 examples? 12 A. Again Mrs. Hensley, Andaraus 13 from 501 at one time was teaching 14 Spanish in room 207. 501, left-hand 15 side. 207, all the way to the right by 16 the exit, exit number 5 on the 17 right-hand side. 18 I've had -- I'm trying to think 19 if there's any others. We've been 20 fortunate in past years to be able to 21 not have a lot of switching, but that's 22 where the Spanish equipment was. That's 23 where we had her go. 24 Q. Can you think of any other 25 examples as you sit here right now?</p>	<p>1 year we had one study hall monitor and 2 one ISI monitor. But in previous years 3 we had to have teachers go from all 4 over the building to monitor study hall. 5 And we also had to have teachers 6 -- and I'm looking, 709 is in the lower 7 right-hand corner, that would have been 8 our ISI room. And I believe Mrs. Smith 9 was one of those teachers who probably 10 had ISI at times. We had a lot of 11 teachers that would take it for a 12 period, sometimes over lunch it might 13 have been 30 minutes. 14 Q. Okay. 15 A. And there would have been 16 teachers from the science hallway, the 17 English hallway, every hallway probably 18 but social studies. 19 Q. Okay. Which would be the 20 600 wing? 21 A. 500, sir. 22 Q. 500 is the social studies? 23 A. Yeah, social studies and art. 24 Q. Okay. And in those 25 situations, did you receive complaints</p>



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<p>1 that those teachers were tardy to their 2 study hall or ISI duties? 3 A. No, because they had to be 4 there, because many times that was 5 either the lunch period or the class 6 period that the other teacher had to 7 leave to go to. 8 Q. Okay. 9 A. So. 10 Q. And some of those teachers 11 would have had comparable distance to 12 the distance traveled by Mrs. Smith? 13 A. Yes, sir. 14 Q. Okay. Now -- 15 A. Oh, one other. I'm sorry. 16 Q. That's okay. Please. 17 A. And this goes back to Mr. 18 Shoub, that I forget when he asked me. 19 Ms. Malott did have ISI duty this year 20 for a half an hour. So she would have 21 been a traveling teacher. She would 22 have been the only teacher that we had 23 this year that had ISI. 24 Q. Okay. Now, if you could, 25 please -- if I may approach the</p>	<p>1 Q. Okay. Thank you. 2 A. Uh-huh. 3 MR. WILLIAMS: I don't have any 4 further redirect. Thank you. 5 EXAMINATION OF CHRIS J. GASTEIER 6 BY-THE-ARBITRATOR: 7 Q. I've got a couple questions. 8 A. Sure. 9 Q. The sequence of events, I 10 have it as the 3-19-10 incident. Okay. 11 Then you talked to the superintendent 12 while you were in California. And that 13 was during the week of the 22nd to the 14 27th? 15 A. If that's the corresponding 16 Monday through Friday. 17 Q. Yeah. 18 A. Yes, sir. 19 Q. And then on the 29th, she 20 was removed from her duties due to the 21 pornography allegations? 22 A. Yes. 23 Q. And then the investigation 24 with the students took place? 25 A. That I was part of, yes.</p>
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<p>1 witness -- 2 A. Sure. 3 Q. -- with my highlighter. 4 If you could please, we've talked 5 about where the 700 wing is. If you 6 could draw on this Exhibit 101 where 7 this 700 wing would be above on the 8 main floor plan. 9 A. Okay. It's going to be -- 10 MR. SHOUB: Is it all right if 11 I -- 12 THE WITNESS: Yeah, sure. 13 A. But pardon my drawing skills. 14 Let's see. We've got -- and I may be 15 off a little bit here. But it goes 16 back to, there's a -- this, where are 17 we, 700 here? There's a storage area 18 back here, okay, up top. And then 19 here's the steps. 20 Q. Okay. So these steps along 21 with those steps? 22 A. Yeah, this, if I could say, 23 A and B. 24 Q. Yeah. 25 A. A, and B.</p>	<p>1 Q. All right. But I'm saying 2 she was removed of her duties, then you 3 spoke to the students, okay? 4 A. Yes. 5 Q. All right. That's one 6 thing. 7 The second thing is, did you ever 8 look at or consider Mrs. Smith's room 9 assignments prior to the 09/10 school 10 year, as far as how much travel she 11 would have to do? I mean, is that 12 something the principal looks at, room 13 assignments, did you look at this? 14 A. Well, yeah, two things. 15 One, yes, I do look at room assignments 16 as principal. 17 Q. Okay. 18 A. In terms of Mrs. Smith, I 19 didn't think it would be an issue at 20 that time. She seemed to be in better 21 health than she had been in previous 22 years. 23 Q. So basically it was your 24 consideration that she should be able to 25 make it in the four minutes?</p>



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<p>1 A. Yes, sir.</p> <p>2 Q. Okay. I think you've</p> <p>3 answered this before a couple of times.</p> <p>4 Did she ever ask you to change rooms</p> <p>5 during the 09/10 school year?</p> <p>6 A. Not to my recollection, no.</p> <p>7 Q. She never asked you that?</p> <p>8 A. No.</p> <p>9 Q. The last question is, how</p> <p>10 did the investigation of pornography</p> <p>11 move to topics of her being tardy and</p> <p>12 sleeping on the job?</p> <p>13 A. We had asked the students</p> <p>14 when we called them in in the group,</p> <p>15 before we called them in individually,</p> <p>16 we had asked the students to tell us</p> <p>17 what happened on that date, 3-19.</p> <p>18 Okay. And then is there any --</p> <p>19 and talk -- well, no. We asked them</p> <p>20 first originally, is there anything that</p> <p>21 goes on in Mrs. Smith's class. And the</p> <p>22 thought was that we didn't want to plant</p> <p>23 seeds in their mind.</p> <p>24 Q. About the pornography?</p> <p>25 A. About anything.</p>	<p>1 one.</p> <p>2 Q. All right. So you're saying</p> <p>3 there were things in the statements that</p> <p>4 then --</p> <p>5 A. That related to other -- I'm</p> <p>6 sorry.</p> <p>7 Q. -- led you to other</p> <p>8 allegations that you wanted to get into?</p> <p>9 A. No, that led us to other</p> <p>10 questions. There were things in the</p> <p>11 statements that led to other questions.</p> <p>12 Q. Okay. All right. So</p> <p>13 basically I am correct, the statements</p> <p>14 went first, then the questioning. And</p> <p>15 there were certain things in the</p> <p>16 statements that led you to ask other</p> <p>17 questions about the --</p> <p>18 A. That's my recollection, yes,</p> <p>19 sir.</p> <p>20 Q. Okay. So basically when you</p> <p>21 first started this, you weren't even</p> <p>22 looking at sleeping or tardiness?</p> <p>23 A. When we first started with</p> <p>24 this particular class, we were looking</p> <p>25 at what happened in there that day.</p>
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<p>1 Q. Okay.</p> <p>2 A. Okay. And I'm not an</p> <p>3 attorney, but I didn't want to prejudice</p> <p>4 what they were going to say to us by</p> <p>5 planting something in their mind to get</p> <p>6 them to talk about that specifically.</p> <p>7 So when we talked to them, is</p> <p>8 there something -- talk to us about Mrs.</p> <p>9 Smith's class.</p> <p>10 Q. I thought you said originally</p> <p>11 that you asked them to give you</p> <p>12 statements before you talked to them?</p> <p>13 A. Yes. Yes.</p> <p>14 Q. All right. So they gave you</p> <p>15 statements?</p> <p>16 A. Yes.</p> <p>17 Q. Now, are you saying to me</p> <p>18 that some of the statements had stuff</p> <p>19 about her being tardy and late to class?</p> <p>20 A. Yes.</p> <p>21 Q. Sleeping in class?</p> <p>22 A. Well, that I don't recall in</p> <p>23 terms of the sleeping in class.</p> <p>24 I can't be sure on the tardy.</p> <p>25 I'd have to go back and look at each</p>	<p>1 Q. The pornography --</p> <p>2 A. Yes.</p> <p>3 Q. -- on the 19th?</p> <p>4 THE ARBITRATOR: Okay. All</p> <p>5 right. Anyone else have anything?</p> <p>6 MR. SHOUB: I might.</p> <p>7 EXAMINATION OF CHRIS J. GASTEIER</p> <p>8 BY-MR.SHOUB:</p> <p>9 Q. You basically said to these</p> <p>10 students, tell us if you have any other</p> <p>11 concerns about Mrs. Smith's class?</p> <p>12 A. Not in those terms, no.</p> <p>13 Talk to us about Mrs. Smith's class.</p> <p>14 Q. Essentially --</p> <p>15 A. On a normal day, what</p> <p>16 happens, is there anything on that date</p> <p>17 that stands out.</p> <p>18 Q. Basically asking the students</p> <p>19 to evaluate her?</p> <p>20 A. No.</p> <p>21 Q. Wouldn't you as a principal</p> <p>22 of a high school, if Mrs. Smith was</p> <p>23 tardy to her social studies class three</p> <p>24 times a week, 15 to 20 minutes late</p> <p>25 each time, and was sleeping in study</p>



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<p>1 hall and sleeping in class, you would 2 have heard about that prior to March of 3 2010, wouldn't you, or expect to have 4 heard about it? 5 A. I'm not going to comment on 6 those specific times and numbers. 7 Q. Well, I'm not asking you to 8 comment. I'm asking you to answer the 9 question. I'm just saying, if Mrs. 10 Smith had been -- let's break it down. 11 If Mrs. Smith had been tardy 12 three times a week as much 15 or 20 13 minutes each time, I mean, you certainly 14 would have expected to have heard about 15 that before March of 2010 during that 16 school year last year? 17 MR. WILLIAMS: And I'm going to 18 object only because this re-cross goes 19 beyond the scope of either my redirect 20 or the referee's -- 21 MR. SHOUB: Well, I think it's. 22 MR. WILLIAMS: -- or the 23 referee's questions. 24 THE ARBITRATOR: Well, I'm going 25 to overrule your objection.</p>	<p>1 you know, 15 to 20 minutes. 2 THE ARBITRATOR: Sure. 3 THE WITNESS: I -- nobody had 4 ever come to me and told me that, to my 5 recollection, that that was going on. 6 Yes, I would have -- I would think I 7 would hope that I would have addressed 8 that, if it was 15 to 20 minutes late. 9 Q. I wasn't asking so much 10 about addressing it, but just hearing 11 about it? 12 A. Well, I would -- 13 THE ARBITRATOR: Yeah, go on. 14 A. Nobody ever told me, to my 15 knowledge, that we were talking 15 to 20 16 minutes. To me that would be -- 17 Q. Nobody came and complained to 18 you, other than those two anonymous 19 people that you referred to earlier in 20 your testimony, about Mrs. Smith 21 sleeping in class or study hall prior to 22 March 2010, right? During that last 23 school year I'm talking about. 24 A. I can't give you a name 25 right now, no, sir, during the last</p>
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<p>1 But I don't know if I would go 2 along with your characterization of what 3 he would have heard. I think -- 4 MR. SHOUB: Well, there's been 5 testimony. 6 THE ARBITRATOR: I know, there 7 has been some testimony. Okay. If 8 there's been a decent amount of 9 testimony about a period of lateness by 10 a teacher and a teacher falling asleep 11 in class, wouldn't you have heard about 12 this before March 19th? 13 THE WITNESS: I did have a 14 conversation with Mrs. Smith at one 15 point in the hallway. You know, I was 16 going to my office, coming from the 600, 17 500 wing down. She was going to her 18 classroom. And just, got to get to 19 class. She said, yeah. And we talked 20 about, you know, there might have been 21 some student or somebody there. But I 22 reiterated, it's important to supervise. 23 This would have been after the memo I 24 had sent to her earlier in the year. 25 As far as, if I can respond to,</p>	<p>1 school year. 2 MR. SHOUB: Okay. That's all 3 the questions I have. 4 THE ARBITRATOR: Thank you very 5 much. You're done. 6 THE WITNESS: Okay. That's what 7 I wanted to make sure I heard before I 8 left the area. 9 (Off the record at 2:20 p.m.) 10 ----- 11 . 12 . 13 . 14 . 15 . 16 . 17 . 18 . 19 . 20 . 21 . 22 . 23 . 24 . 25 .</p>



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